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BY

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Let observation, with extensive view,
Survey mankind from China to Peru.
SAMUEL JOHNSON.

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London and National Society for Women's Service.
London School of Economics.
London University.
Los Angeles County Law Library (per The Carswell Co., Ltd.).
Los Angeles Public Library (per Moore-Cottrell Subscription Agencies Inc.).
Louisiana State University (per G. E. Stechert & Co.).
Louisiana State University Law Library (per Sweet & Maxwell, Ltd.).
Lucknow University Library (Law Dept.) (per W. H. Smith & Sons, Ltd.).

Macassey, Sir Lynden.
MacGeagh, Sir Henry F.
McGill University Library (per W. H. Smith & Sons, Ltd.).
McIlwraith, Sir Malcolm.
Macmillan, The Rt. Hon. Lord.
McNair, Professor A. D.
Madras, Advocate-General (per Gordon & Gotch, Ltd.).
Madras, Chief Secretary to Government.
Madras, Connemara Public Library.
Madras, Law College (per Gordon & Gotch, Ltd.).
Madras, Legislative Council Library (per Gordon & Gotch, Ltd.).
Madras, The Presidency College (per Gordon & Gotch, Ltd.).
Madras Advocates Association (per Stevens & Sons, Ltd.).
Malkin, Sir William.
Manchester Incorporated Law Library Society.
Manchester Public Library.
Manchester University.
Manitoba, Law Society (per The Carswell Co., Ltd.).
Manitoba Provincial Library (per Gordon & Gotch, Ltd.).
Manitoba University (per Wm. Dawson & Son, Ltd.).
Mann, F. A.

Mannheim, Hermann.
Massachusetts State Library (per F. W. Faxon Co.).
Matthews, The Hon. E. L. (Natal).
Mauritius Supreme Court Library (per Crown Agents).
" Meikan " Kyoto (per Maruzen Co., Ltd.).
Melbourne Public Library (per Sotheran & Co.).
Melbourne University (per David Nutt).
Meyer, T. U.
Michigan State Library (per The Carswell Co., Ltd.).
Michigan University Law Library.
Michigan University Library (per Sotheran & Co.).
Middle Temple Library (per Butterworth & Co.).
Minnesota State Library (per N. A. Phemister Co.).
Minnesota University Law Library (per Sweet & Maxwell, Ltd.).
Minnesota University Library (per G. E. Stechert & Co.).
Minsk, U.S.S.R., Belorussk. Gos. Juridich. Institut (per Wm. Dawson & Sons, Ltd.).
Missouri University Library (per G. E. Stechert & Co.).
Mitchell Library, Glasgow.
Montreal Bar Library (per The Carswell Co., Ltd.).
Montrose, Professor J. L. (Belfast).
Moore, John Bassett (New York).
Moscow, Fund. Biblioteke O.O.N. Akademii Nauk (per Wm. Dawson & Sons, Ltd.).
Moscow, Otdel Kodifikacü (per Wm. Dawson & Sons, Ltd.).
Moscow, Vsesojusnaja Biblioteka (per Wm. Dawson & Sons, Ltd.).
Mysore, Chief Court.
Mysore General and Revenue Secretariat (per W. H. Smith & Sons, Ltd.).

Napier, J. M.
National Library of Peiping (per Stevens & Brown, Ltd.).
Nebraska University Library (per Moore-Cottrell Subscription Agency, Inc.).
Neufeld, Dr. E.
Newcastle Protection and Indemnity Association.
Newfoundland, Dept. of Justice (per Crown Agents).
New Guinea, Crown Law Officer (per Crown Agents).
New South Wales, Attorney-General (per Sweet & Maxwell, Ltd.).
New South Wales Parliamentary Library, Sydney (per Gordon & Gotch, Ltd.).
New York Bar Association.
New York Law Institute (per Sweet & Maxwell, Ltd.).
New York Public Library (per Stevens & Brown).
New York State Library (per G. E. Stechert & Co.).
New York University. (2) (per G. E. Stechert & Co.).
New Zealand, Department of Labour.

New Zealand General Assembly Library (per Street & Co., Ltd.).
New Zealand, Ministry of Justice. (5)
New Zealand, University College, Auckland (per D. Nutt).
Nigeria, Attorney-General (3) (per Crown Agents).
Noad, Thomas W.
North of England Protecting and Indemnity Association.
Northern Ireland, Ministry of Finance.
Northern Rhodesia, Attorney-General (per Crown Agents).
Northern Rhodesia, Registrar of High Court (per Crown Agents).
North-Western University Law School.
North-Western University Library (per Stevens & Brown).
Nyasaland, Attorney-General (per Crown Agents).
Nyasaland, Registrar, High Court (per Crown Agents).

Ohio State University Library. (2) (per G. E. Stechert & Co.).
O'Mahony, Eoin (Dublin).
Ontario, The Hon. the Attorney-General.
Ontario Legislative Library (per Allen & Son, Ltd.).
Oregon Supreme Court Library (per The Carswell Co., Ltd.).
Osaka University of Commerce (per Maruzen Co., Ltd.).
O'Sullivan, Richard.

Palestine, Superintendent of Courts (per Crown Agents).
Parry, Professor D. Hughes.
Patna High Court (per Das Gupta & Co.).
Pennsylvania State Library (per Mutual Subscription Agency).
Peru, Universidad Mayor de San Marcos (per Longmans, Green & Co., Ltd.).
Phemister Co., The N. A. (New York).
Philadelphia Law Association (per Sweet & Maxwell, Ltd.).
Philippine National Library, Legislative Reference Division (per F. W. Faxon Co.).
Phillips, G. Godfrey.
Pollak, W. (Johannesburg) (per Sweet & Maxwell, Ltd.).
Ponoma College Library (per F. W. Faxon Co.).
Pretoria University.
Princeton University Library, New Jersey (per F. W. Faxon Co.).
Privy Council Office (per H.M. Stationery Office).
Punjab Legislative Assembly (per Wm. Dawson & Sons, Ltd.).
Punjab Legislative Council, Lahore (per Sweet & Maxwell, Ltd.).
Pyke, H. Reason.

Quebec, Deputy Attorney-General.
Queensland, Department of Justice.
Queensland, Supreme Court Library (per The Carswell Co., Ltd.).
Queensland University (per B. H. Blackwell, Ltd.).

Rangoon, University Library (per Wildy & Sons, Ltd.).
Reed College Library, Portland, Oregon (per F. W. Faxon Co.).
Ripon Law College, Calcutta.
Risley, Sir J. S.
Roberts, Dr. O. W. (per J. Higgins & Son).
Rosendorff, Richard.
Rowell, The Hon. N. W. (Toronto).
Royal Empire Society.
Royal Holloway College (per B. H. Blackwell, Ltd.).
Russell Sage Foundation Library (per F. W. Faxon Co.).
Rutgers University Library (per E. Steiger & Co.).
Ryan, M. J. (Dublin).

St. Lucia, Attorney-General (per Crown Agents).
St. Vincent, Supreme Court (per Crown Agents).
Samuel, A. L.
San Francisco Law Library (per The Carswell Co., Ltd.).
Sapru, The Rt. Hon. Sir Tej Bahadur (Allahabad, India) (per The Times Book Co., Ltd.).
Sarawak, Chief Justice, Kuching (per W. H. Everett & Son, Ltd.).
Saskatchewan, Legislative Counsel. (5)
Saskatchewan University (per Gordon & Gotch, Ltd.).
Schuster, E. (New York) (per Butterworth & Co.).
Servants of India Society (Poona) (per P. S. King & Son, Ltd.).
Seychelles, H.E. The Governor (per Crown Agents).
Shanghai University, Business Office (per The International News Company, New York).
Shaw, Sir John H.
Sheffield Public Library.
Sierra Leone, Attorney-General (per Crown Agents).
Singh, R. T. B. Chain (per Gordon & Gotch, Ltd.).
Sinha, The Lord (Calcutta).
Slater, E. H. (Ontario).
Smith, Professor H. A.
Social Law Library, Boston, Mass. (per Sweet & Maxwell, Ltd.).
Society of Writers to H.M. Signet.
Solicitors Supreme Court Library (Edinburgh).
South Africa, Bloemfontein Supreme Court, Appellate Division.
South Africa, Bloemfontein Supreme Court, O.F.S. Provincial Division.
South Africa, Cape Town Supreme Court.
South Africa, Library of Parliament (per Juta & Co. and Walker Bros.).
South Africa, Pretoria Supreme Court.
South Africa Railway Headquarters.
South Australia, The Hon. the Attorney-General.
South West Africa, Administration Library.

Southern California University (per The Carswell Co.).
Southern Law Society (Hobart, Tasmania).
Southern Rhodesia, Clerk to the Legislative Assembly.
Southern Rhodesia, Department of Justice.
Squire Law Library, Cambridge.
Stainton, Sir John.
Stamp, J. H.
Stanford University Library, California (per G. E. Stechert & Co.).
Steedman, J. W. E.
Stellenbosch University Library (per B. H. Blackwell, Ltd.).
Stiebel, Arthur.
Stoneham, R. T. D.
Straits Settlements, Colonial Secretary. (3) (per Crown Agents).
Straits Settlements, Department of Statistics.
Sudan, The Hon. the Legal Secretary.
Suenobu, Sanji (Tokyo) (per Mitsukoshi, Ltd.).
Sunderland S.S. Protecting and Indemnity Association.
Sweden, Riksdags-biblioteket (per C. E. Fritze).
Sweet & Maxwell, Ltd.
Sydney Public Library (per Law Book Co. of Australia).
Sydney University (per Sweet & Maxwell, Ltd.).
Syracuse University Library, New York (per F. W. Faxon Co.).
Szechuen National University (per B. H. Blackwell, Ltd.).
Szladits, Professor Charles (Budapest).

Taft, Henry W. (New York).
Taihoku Imperial University Library (per Maruzen Co., Ltd.).
Takayanagi, Mr. Kenzo (Japan).
Tan, T. L. (Singapore) (per Sweet & Maxwell, Ltd.).
Tanganyika, Attorney-General (per Crown Agents).
Tanganyika, The Registrar, High Court (per Crown Agents).
Tashkentskij Jurisdichesk Institutu, U.S.S.R. (per Wm. Dawson & Sons, Ltd.).
Tasmania, Agent-General.
Tasmania University.
Terrell, The Hon. Mr. Justice A. K. à Beckett (Straits Settlements).
Texas University (per The Moore-Cottrell Subscription Agency).
Themaat, H. Ver Loren van (Stellenbosch) (per Dawson & Sons, Ltd.).
Thomson, J. H. (per Dawson & Sons, Ltd.).
Tokyo, Toa-Kenkyujo (Eastern Asia Research Dept.) (per Mitsukoshi, Ltd.).
Tokyo, Gaimusho-Toshoshitsu (per Maruzen Co., Ltd.).
Tokyo Imperial University (per Maruzen Co., Ltd.).
Tokyo, The Keiogyuku Library (per Maruzen Co., Ltd.).
Tokyo, Shiho-Kenyushitsu (Dept. of Justice) (per Mitsukoshi, Ltd.).
Toronto University.

Transvaal, The Hon. the Administrator.
Travancore, The Hon. the Dewan of.
Travancore, Legal Remembrancer.
Travancore University (per Wm. Dawson & Sons, Ltd.).
Treasury Solicitor (per H.M. Stationery Office).
Trimble, M. (New Zealand).
Trinidad, Attorney-General (per Crown Agents).

Uganda, Attorney-General (per Crown Agents).
Uganda, Registrar, High Court (per Crown Agents).
United Provinces of Agra and Oudh.
United States Bureau of Foreign and Domestic Commerce.
United States Dept. of Justice.
United States Dept. of Labour Library (per P. S. King & Son, Ltd.).
United States, Department of State (per Stevens & Brown).
University College, Dublin (per The Sign of the Three Candles, Ltd.).
University College, London.
University College, Oxford (per Parker & Son, Ltd.).
Upper Canada Law Society Library (per Sweet & Maxwell, Ltd.).

Van Zyl, G. V. (Cape Town) (per Juta & Co. and Walker Bros.).
Vassar College Library (per G. E. Stechert & Co.).
Vermont State Library (per F. W. Faxon Co.).
Victoria, Agent-General. (5)
Victoria University College Library (per Sotheran & Co.).

Wade, E. C. S.
Waghray, J. N. (Hyderabad).
Waseda University Library, Tokyo (per Maruzen Co., Ltd.).
Waseda University, Department of Politics and Economics (per Maruzen Co., Ltd.).
Washington and Lee University (per Stevens & Brown, Ltd.).
Washington University Law Library (per N. A. Phemister Co.).
Washington University Law School, St. Louis (per The Carswell Co.).
Washington University Library (per Stevens & Brown).
Washington University Library, St. Louis (per G. E. Stechert & Co.).
Webber, George J.
Wellesley College Library (per Stevens & Brown).
Wesley University (Middleton, Conn., U.S.A.) (per G. E. Stechert & Co.).
West India Committee, The.
Western Australia, Crown Law Dept.
Western Australia, Public Library (per Francis Edwards, Ltd.).
Western Australia University.

Western Reserve University Law School (Ohio) (per The Carswell Co.).
Western Reserve University Library (per G. E. Stechert & Co.).
Williams College Library, Mass., U.S.A.
Williams, Miss Ivy.
Wisconsin State Library (per The Carswell Co., Ltd.).
Wisconsin University Law Library (per N. A. Phemister Co.).
Witwatersrand University (per Simpkin, Marshall, Ltd.).
Wolff, Henry J. (New York City).
Wortley, B. A.
Wu-Han University Library (per Wm. Dawson & Sons, Ltd.).
Wyler, Dr. Marcus (Switzerland).
Wyoming State Library (per N. A. Phemister Co.).

Yale Law Library (2) (per Sweet & Maxwell, Ltd.).
Yale University Library (per Allen & Son, Ltd.).
Yuasa, K. (Osaka).

Zanzibar, Attorney-General (per Crown Agents).
Zanzibar, Registrar High Court (per Crown Agents).
Ziegler, C. H.

ANNUAL REPORT.

The principal event of the year affecting the Society was the destruction by enemy action of the building in which it had chambers for more than twenty years. Mr. J. E. Rubie, who had been a tenant of the Society throughout that period, died shortly before the disaster. The set of rooms was formerly occupied by a Master of the Bench of the Middle Temple and had historical associations which appealed to visitors from overseas. The most courteous attention and consideration was shown to the Society in its difficulties by the officials of the Inn, so that temporary accommodation was secured without delay until it was possible to find a more permanent home in 1, King's Bench Walk. The change has had one advantage in reducing expenditure. Although the Society has been deprived of any appreciable library, the loss is not so serious as it would have been before the generous arrangements made by the Governors of the London School of Economics for the custody of the Schuster Library of Comparative Law and provision of facilities for its use by the members of the Society. Fortunately, most of the Society's papers and all the matter for the *Journal* were recovered, so that work was continued almost without interruption. It is feared, however, that some volumes have not been reviewed according to the Editor's intentions, and for this an apology is due to the authors and publishers.

If regard is had to the loss of membership in countries which have willingly or unwillingly taken part in the present unsettled conditions on the Continent, the financial statement can be regarded with satisfaction. It is a matter for congratulation that the much-needed Consolidated Index to the first twenty volumes of the Third Series of the *Journal* was published in the middle of the year. Apart from the loss of membership due to the war it is gratifying that the number of new members equalled the number of losses through death or resignation. Owing to the destruction of back numbers of the *Journal* the revenue from their sale will be largely diminished. The production of positive micro-film copies of the early numbers may, however, assist subscribers to complete their sets of the *Journal*, although it will not provide the same amount of income.

The Society has lost in Sir Maurice Amos a valued contributor, who was formerly Editor of the *Journal* as well as a member of the Council and of the Committee. Sir Thomas Barclay, who died at the end of the year, at one time also took an active interest in the Society's work.

The Committee have been glad to welcome Lord Sinha as a member of the Council, and Mr. Lucius Crane as a member of the Executive Committee.

At the end of the year the Committee received warm expressions of goodwill from the American Bar Association and the American Law Institute, testifying to their appreciation of the work of the Society. Encouraged by these and similar manifestations of sympathy, the Committee are confident that it will be possible to maintain and even in some measure to develop the activities of the Society as well as to ensure the continued issue of the *Journal*. The Committee trust that members will not fail to avail themselves of opportunities to make more widely known the work of the Society, as it occupies a unique position among English-speaking peoples in providing a bond of union in the realm of the law.

MACMILLAN, *Chairman*.

SOCIETY OF COMPARATIVE LEGISLATION.

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR YEAR ENDING DECEMBER 31, 1940. **Cr.**

	£	s.	d.	£	s.	d.
To Subscriptions:						
General	391	14	5			
Government	184	11	8			
				576	6	1
„ Grants:						
Middle Temple	52	10	0			
Gray's Inn	52	10	0			
Law Society	21	0	0			
Canadian Bar Association	11	3	8			
American Bar Association	10	10	0			
Government of Fiji	10	0	0			
Government of Mauritius	5	5	0			
Government of Trinidad	5	0	0			
				167	18	8
„ Sale of *Journals*, Back Numbers, Reprints, etc.	18	18	9			
Less Cost of Reprints	1	10	9			
				17	8	0
„ Interest on War Loan— Year to December 1, 1940, less Tax				4	0	6
„ Subscriptions in arrear paid during 1940				9	10	7
„ Subscriptions in advance paid during 1940				13	13	0
„ Subscriptions for Consolidated Index				39	13	4
„ Cash at January 1, 1940:						
At Bank	129	11	7			
In Hand	3	5	1			
				132	16	8
				£961	6	10

	£	s.	d.	£	s.	d.
By Publication of *Journal*:						
Printing vol. xxi, pt. 4	137	19	0			
Printing vol. xxii, pt. 1	115	8	6			
Printing vol. xxii, pts. 2 and 3	192	4	11			
Printing Consolidated Index	52	15	0			
Prospectus	5	18	2			
				504	5	7
„ Salary of Clerk				118	0	0
„ Rent of Chambers	100	0	0			
Less Rent received	30	0	0			
				70	0	0
„ Lighting, Heating and Maintenance of Chambers				17	3	4
„ General Expenses, including postage and insurance				54	12	0
„ Telephone				7	0	3
„ Stationery				19	11	5½
„ Audit of Accounts				5	5	0
„ Cash at December 31, 1940:						
At Bank	162	8	8			
In Hand	3	0	6½			
				165	9	2½
				£961	6	10

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance and also the investment of £200 3½% War Bonds.

LONDON: 48, Copthall Avenue, E.C.2.
March 3, 1941.

CASH, STONE & CO.
Chartered Accountants.

INTRODUCTION

[*Contributed by* F. M. Goadby, Esq., D.C.L.]

In the States and Territories whose legislation is covered in this Review, the events of 1939 made requisite special war legislation. Special mention is made in very many of our Summaries of the enactment of a standard Trading with the Enemy Act ; a complete list will be found in the Index. Emergency powers were secured by an almost equal number of Governments ; Censorship or complete Government control of telegraphic and telephonic communication were established (*cf.* Falkland Islands (157), British Guiana (156), St. Vincent (162), Leeward Islands (160), Trinidad (162)) ; National Defence Forces were organized (*see* Index, sub. v. Defence) and in Kenya assent was given to an Act enrolling every male British subject or British protected person from 18 to 50 for military service (153). Compulsory registration of Europeans and Asiatics for National Service was authorized in Nyasaland (153), and military bodies of one kind and another are mentioned as being created in almost every part of the Empire. All this only goes to show the determination of our fellow-subjects throughout the Dominions and Colonies to resist to the utmost the threats and violence of the enemies of our security and liberty. Our correspondent dealing with the United States legislation gives a leading place to the Neutrality Act of Congress, 1939 (168), a harbinger of the movement for our assistance by America, upon which so much depends and which has since become so much more definite.

Of all this war legislation it is not necessary to write at large. Of that of this country Sir Cecil Carr gives us an illuminating summary. We are all well aware of the wide scope of the powers now in the hands of the Executive departments and officers and of the military authorities. That these powers may sometimes be negligently or even abusively exercised there can be little question. It can hardly be otherwise in an emergency such as the present when power is necessarily sometimes conferred upon persons unfit to exercise it. The patience and patriotism of the civilian population is, on the whole, however, equal to the strain. " Better these than worse, by my advice. . . . To suffer as to do our strength is equal. This was at first resolved, if we were wise, against so great a foe contending and so doubtful what might fall."

But though the war then just beginning much engaged the attention of the legislators yet other and more permanent interests were not neglected in 1939. **Constitutional changes** were few. The re-arrangements in the West Indies, to which Sir Algernon Aspinall drew our attention last November, gave occasion for two Ordinances in Dominica in order to carry out its separation from the Leeward Islands and its inclusion in the Windward group as a separate colony as also for legislation in the Leeward Islands in connexion with the creation of a Supreme Court for both groups of islands (p. 160). A Statute of South Australia amending

the Wrongs Act of 1936 makes it clear that Hansard reports are published with the authority of Parliament. In Ontario the Judicature Amendment Act made provision for restraining newspaper publication of anything tending to insult, revile or expose to contempt His Majesty or any member of the Royal Family (p. 61). In " Eire " the first amendment of the Constitution Act re-defines the phrase " time of war " to cover armed conflict out of which arises a national emergency (p. 39). The control of *Aliens* which the war has made of greater importance, was tightened in Australia by regulations under the National Security Act, but provision of a more permanent character was made by an Aliens Registration Act, not yet brought into operation. Compulsory Registration was also enforced in South Africa (p. 119). The Governors of Barbados, British Honduras and British Guiana were empowered to prohibit the entry of aliens (pp. 156-7). In Sarawak registration of aliens was also required (p. 149), and by " alien " is to be understood " any person other than a British subject, a British protected person, a citizen of the Republic of China, an Asiatic subject of the Queen of the Netherlands, an Asiatic citizen of the French Republic, or any person or class of persons exempted by the Chief Secretary." The Central Legislature of British India made possible by enactment the Registration of " Foreigners " ; the latter term must, we are told, be carefully distinguished from " alien " and includes all British subjects who are neither British Indian subjects nor domiciled in the United Kingdom, but does not include rulers and subjects of Indian States (p. 126). Sir Cecil Carr notes for us the British regulation which allows aliens to enter, or be commissioned in the armed forces, notwithstanding the Act of Settlement (p. 27). We are no longer jealous of Dutch or of Hanoverian infiltrations.

Family Law.—Mr. Grigs gives us an interesting account of the Matrimonial Causes Law of Guernsey (pp. 29-31), of which we shall hope to hear more later. The Act appears to be based mainly on the Imperial legislation, with modifications and amplifications. Mr. Grigs somewhat tremblingly approves the adoption of the decision in *White* v. *White* (53 T.L.R. 442) " *pace* Dr. Cheshire." In Northern Ireland the new Matrimonial Causes Act, long surely overdue, supersedes the system of divorce by private Act and revises the law in accordance with English ideas. Sir Arthur Quekett describes it in some detail (pp. 33-4). From Burma we have reported two Acts of considerable interest dealing with Personal Law (pp. 137-8). We are much indebted to Dr. Vesey FitzGerald, who has most kindly provided us with a summary of Indian and Burmese legislation to take the place of the original reviews destroyed as a result of enemy action. The Burmese legislation in question is described by him as " startling." It is intended primarily to regulate the effects of marriage between non-Buddhist men and Buddhist women, and its possible repercussions appear to be remarkable. Dr. FitzGerald's remarks are valuable. Provision for divorce was also made in Fiji (p. 114) a separate Ordinance dealing with the divorce of Fijians. Dr. FitzGerald reports also a piece of striking legislation (p. 125-6) by the Indian Central Legislature dealing with the dissolution of Moslem marriages, which, it appears, gives to the Moslem wife " an extensive right of appeal to the Courts for complete release from, *e.g.*, a brutal or deserting husband and further makes provision for the release in proper cases of a wife who abandons Islam and meets with scant consideration in consequence.

In Scotland the odd survival of marriage by declaration *de presenti* or by promise *subsequenti copula* were abolished by the Marriage (Scotland) Act, though marriage by cohabitation and habit and repute have been retained (10-11).

The marriage of children was controlled by legislation in New Zealand, where, following the Marriage Act, 1929 (U.K.) marriage to which either of the parties was under the age of 16 years was declared void (111). Controlling legislation was also passed in Aden (147) and Gambia (150). Also in New Zealand an Act made legitimation automatically follow the marriage of the parents and " whether or not the illegitimate child was living at the date of the marriage and whether or not his parents were domiciled in New Zealand at the time of their marriage or at the time of his birth." An extension of the Family Protection Act of 1908 to intestacies was also enacted (111). Legislation in Fiji enabled application to be made to the Court where the testator has not made provision for dependent relatives (113). In Western Australia provisions as to Family Maintenance have been re-enacted with extensions in a separate Act (101). Dr. de Mello gives us an interesting account of four Ordinances passed in the interests of children in the Straits Settlements (141-3). He draws special attention to the provisions of Ord. No. 17, designed to implement the recommendations of the Minority Report of the Commission appointed to consider the question of " Mui-tsai " and transfer for valuable consideration of women and children in Hong Kong and Malaya. A somewhat similar problem has been dealt with in Aden, where Ord. No. 19 of the year under review forbids the employment of a child in domestic service except in his own family (147). The Adoption of Children (Regulation) Act of the United Kingdom (6) is designed also to prevent child exploitation by securing the good faith and intentions of the " go-between " agency. General provisions restricting juvenile labour are noted in the Bahamas (158), Barbados (158), Leeward Isles (160), St. Lucia (162), and Nyasaland (153).

Social and Industrial Welfare.—In the United Kingdom we note particularly the Cancer Act (7), and much approve the prohibition of advertised offers of cancer treatment or remedies, reliance upon which frequently leads to delay in securing proper professional advice. Health in another connexion was also one of the purposes of the Access to Mountains Act (6). It has taken a long time to secure even this diluted measure, the application of which the events of the last two years has also much interrupted. It is to be hoped that a more generous attitude on the part of the private owners of what under many systems of land law would be public land, will in the future lead to a wide extension of the public rights given by the present law.

Housing is much in our thoughts to-day, and many residents in reception areas are unexpectedly living in inconveniently crowded dwellings. After the war rebuilding and replanning will offer attractive problems to architects and town-planners, though, at the moment, slum clearance and re-housing in the strict sense are in abeyance in the United Kingdom. The clearance of insanitary areas called for legislation in Malta in 1939 (165), and from some acquaintance with Maltese slums I should feel inclined to say that the call was urgent. Jamaica (159) and Grenada (161) also took steps in this direction. In the United Kingdom the Building Societies Act dealt with the question of collateral security from builders, so

much discussed in the Borders litigation (7). In Northern Ireland a comprehensive Housing Act was passed (34).

Relief schemes of various kinds are mentioned in a few summaries. It will suffice to refer particularly to the Bombay Agricultural Debtors' Relief Act, which Dr. FitzGerald describes as " sweeping and courageous " and of which he gives us a judicious account (129). The Bengal Rural Poor and Unemployed Relief Act is also noteworthy (131). The Canadian Act making provision for the training of young people " for gainful employment " (49) appears to be on modern lines. In Quebec the grant for the " assistance of youth " was increased to two million dollars (67).

A tendency towards the more complete organization of skilled trades and of professions suggestive of the ancient art and craft guilds is manifest, particularly in some Dominions. Thus the Registration of Electrical Wiremen after testing of their qualifications is now established in South Africa (117). In Queensland separate registers are established for medical practitioners and specialists. The former, besides academic qualifications, must have had 12 months' service as a resident medical officer in a hospital or actual practice for at least three years outside Queensland (82). Registration of Architects is provided for in South Australia (84) and Victoria (94), and of hairdressers in South Australia (86) and Northern Ireland (37). Beauty culturists are to be registered in Tasmania, but the Act does not appear to make any provision for a qualification test (91). In Western Australia the Dentists Act was revised (99), and a Builders Registration Board established. New applicants must undergo prescribed training and examination (100).

Law Reform.—The Limitation Act, which was an outcome of the labours of the Law Revision Committee, is noteworthy (10). The whole law dealing with this subject was also consolidated in Prince Edward Island (62-3) where consolidating legislation upon Evidence was also passed (62) and various enactments revised the rules of Civil Procedure (62). Statutes of the United Kingdom also revised the provisions which seek to prevent share pushing frauds and regulate street collections. Collections at religious services and bazaars were not long since the principal means by which the non-subscribing public was reached for this purpose. " Flag Days " have since become enormously popular and it is to be hoped that their frequency will not tend to check the flow of regular subscriptions, which must remain the most solid and reputable means of support of public charitable enterprise. Dr. FitzGerald must be gratified by the Moneylenders Act of Bihar (132) by which the " Hindu and Roman law principle of *dam dupat—alterum tantum,* for which he eloquently pleaded in an article in this Journal,[1] has been adopted there. Similar provisions appear also in an Act of the Central Provinces (133) and again in the N.W. Frontier Province (134). The new Gold Clauses Act of the Dominion of Canada (46-7) should prove effective for its purpose.

Legislative Borrowing.—The tendency in favour of standardized legislation continues. In Canada, indeed (48), a new Official Secrets Act has been passed and the Imperial Act of 1911 repealed in so far as it was part of Canadian law ; we are not told in what degree this new Act follows English lines. The Tortfeasors and Contributory Negligence Act in Manitoba (59, compare South Australia (90)) follows a now well-established Imperial precedent and the amendment of the Conditional

[1] *Jour. Comp. Leg.*, Third Series, vii, pt. iv, p. 171.

Sales Act of Saskatchewan (70) is on the lines of the English Hire-Purchase Act of 1938. South Australia (87) and Victoria (94) have followed New South Wales legislation of 1938[1] in a reaction against the decision in *Beresford* v. *Royal Insurance Co.* [1938] A.C. 586. The Motor Car 3rd-party Insurance) Act of Victoria follows New Zealand and South Australia legislation (94). Women as well as men are now to serve on juries in Tasmania (91), and the Public Trustee Act of Victoria (92) follows both Australian and British precedents. (Compare Gambia (150).) The Sedition Ordinance of Fiji follows closely English legislation (113). The Indian Motor Vehicles Act (126) covers the whole field of motor traffic on the highroads on English lines.

In Palestine amendments to the Trial upon Information Ordinance follows English precedents (166) and the authorities there have also at length extended the English bankruptcy rules as to payment of debts to the winding up of insolvent companies, substituting these for the hitherto retained provisions of the Ottoman Commercial Code (165). Legislation as to juvenile offenders of an English type is reported from Ceylon (140) and the English principles governing the punishment of infanticide were enacted in Straits Settlements (144) and many other territories. (*See* Index s. vic. Infanticide). In Straits Settlements this change was accompanied by provisions similar to the British Punishment of Incest Act, 1908, and the Preventions of Crimes Acts. In Aden new Ordinances following Indian lines dealt with the transfer of property (147), Easements (148), and Evidence (148). Legislation regulating Street Collections in Trinidad (163) followed the English provisions. In connexion with *Charitable collections* in general, attention may be drawn to an Act of South Australia (85) which controls all collections made and entertainments held for the purpose of raising funds for charitable purposes. Every person or association of persons making such a collection or conducting such an entertainment must be licensed on application considered by an Advisory Committee. Provision is made for returns by licensees and audit of their accounts. In a proper case, and this provision seems very drastic, control of funds may be taken over by the Minister and funds collected for one purpose may be used for other purposes. The definition of " charitable purposes " in the Act is, however, narrow, and covers only the relief of the sick and poor and comforts. In Aden, where an Act incorporates a new office of Treasurer of charitable endowments (146) " charitable purposes " is definitely stated not to include a purpose which relates exclusively to religious teaching or worship. It is, indeed, very doubtful whether the famous definition in *Income Tax Commissioners* v. *Pemsel* [1891] A.C. 531 ought to be final.

Miscellaneous.—In conclusion reference may be made to a few enactments of an unusual and suggestive character. In Jersey an old provision prohibiting workmen to smoke while at work was repealed (28). Presumably the law was difficult to enforce and regarded as harsh, but few can doubt that smoking is generally a handicap to careful and diligent labour. Manitoba (52) and Ontario (60) regulated changes of name, and it is worth noting that the Companies Amending Act of South Africa (117-9) requires the register of directors, as also letters, circulars, catalogues and show-cards issued by the company to show in respect of each director his name and every other name which he may have borne previously. This last-mentioned Act also provides that " no association formed after

[1] *Jour. Comp. Leg.*, Third Series, Vol. xxii, pt. ii. and iii, p 67.

December 31, 1939, shall be a corporate body unless it is registered as a company or is formed under some other law or by letters patent or royal charter." In South Africa also an attempt was made to deal with gambling schemes, such as the so-called "football pools, which were found to have a pernicious effect upon a large section of the public" (116). In Hong Kong solicitors as well as barristers and advocates from any part of His Majesty's Dominions are qualified to be Chief Justice or Judge of the Supreme Court (141). The conscience clause in the Consolidating Education Ordinance in Ceylon requires that the children shall neither be required to attend nor to abstain from attending any Sunday School or place of religious worship (140). In Gambia the Governor has been empowered after an inquiry to order a school or class for religious instruction to be closed when it is proved that "teaching of a seditious, disloyal, immoral or otherwise harmful character is being or has recently been imparted in it" (150). The words, "otherwise harmful," appear to accord a perilously wide discretion to a narrow-minded Governor. In the same Colony the sale or hire of any fetish or charm pretended or reputed to possess power to protect burglars or other malefactors, or even having such charm in his possession without lawful excuse may lead to imprisonment for three years. Such severity might lead one to think that the Gambian authorities harbour a secret belief in the efficacy of such charms. The Demerara Turf Club in British Guiana is privileged by special legislation to hold lotteries forbidden to other residents in that Colony (156). Selling tobacco in any form to a person under 16 is penalized in the Falkland Islands. Dogs loose in shops or on bathing beaches are often a nuisance and the Victorian legislator has put them under restraint (94). Mr. Woinarski has a word of sympathy with the dog.

Perhaps nothing in this review of legislation is more significant than the extent to which the laws reflect the conditions of national life. In 1939 there were the first signs of the peoples of the Empire bracing their energies for a great conflict. The next review, which it is hoped may be issued earlier in the year, will show the development of the activities to safeguard their existence and maintain their health and strength.

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by* Sir Cecil T. Carr, LL.D., *Editor of Statutes Revised.*]

Part I.—Introductory.

The 121 Public General Acts of the session 2 & 3 Geo. VI (which ran from November 8, 1938, to November 23, 1939) may be roughly divided into two halves ; there are sixty-one statutes enacted before the August adjournment, and sixty statutes of the emergency or war-time period which began with the passing of the Emergency Powers (Defence) Act on August 24. Those of the second half, making a picture of the crisis legislation which a democracy deemed itself to require, will be summarized separately.

Official Publication.—One modest project of reform in the mechanics of official publicity is worth noting.[1] The annual volumes of Public General Acts are being converted from a sessional to a calendar-year basis.[2] After the session 2 & 3 Geo. VI had ended on November 23, the new session 3 & 4 Geo. VI (which began six days later) produced two statutes before the end of December. The Statute Law Committee, which for over seventy years has supervised the publication and promoted the accessibility of the written laws, took the opportunity to include the text of these two statutes (neither of them, as it happened, of permanent importance) along with the text of the 121 Acts of 2 & 3 Geo. VI in the usual sessional volumes. This cleared the way for future annual volumes of Public General Acts which would conveniently contain the legislation of a calendar year. Posterity, now accustomed to the citation of an Act by a short title which incorporates the calendar year, will be spared the tiresome search for it in alternative volumes in those frequent cases where the regnal year and Parliamentary session run into two calendar years.

Legislative Form.—The adoption of the " expository schedule," to show the effect of a direct amendment without obliging the reader to go to the book-shelf in order to refer to the context, has already been discussed in our Journal.[3] It is not really an answer to complaints of " legislation by reference," because direct amendment is not the evil at which those complaints are aimed. The device, however, is useful ; the schedules will presumably disappear in the process of producing Revised Statutes.

[1] See the *Law Quarterly Review*, Oct., 1940, p. 459.

[2] Thereby adopting the procedure favoured in the annual review since the foundation of the Society.—Ed.

[3] See *Journal*, Feb., 1940, p. 14.

Although there was no measure of pure consolidation, the London Government Act admirably re-writes (with some standardizing amendments) the law of metropolitan local authorities. Incidentally it gives a formal repeal to several enactments which it is desirable to eliminate " with a view to the simplification and consolidation of the law " ; it is better thus to sweep as well as garnish while the experts' minds are saturated with the enactments on a particular subject than to leave odds and ends outstanding till some remote date when statute law revision can tidy them up—by which time the experts may be inaccessible for consultation or preoccupied with fresh problems.

The Limitation Act improves the substance as well as the form of Statutes of Limitation which go back to the reign of James I. It is another welcome instalment of the labours of the Lord Chancellor's Law Revision Committee, a body which happily combines academic learning with forensic experience.

If the legislature does not disdain small savings of its own time and of printing costs, might there not now be an enactment in general terms of the familiar six-line clause at present inserted *ad hoc* in statutes which confer powers and duties upon the Board of Trade ? The clause (which appears in eleven Acts in the period covered by this summary) declares that anything required or authorized to be done by, to, or before the Board of Trade may be done by, to, or before the President of the Board, any secretary, under-secretary of the Board, or any person authorized in that behalf by the President. Another common-form *ad hoc* clause, occurring not less often, is that which makes the director, manager, secretary or other official of a body corporate liable to be deemed guilty and punished where an offence committed by the body corporate is proved to have been committed with his consent or connivance. A standard clause of universal application may not be so easy to frame in this case ; but here, again, a general enactment would make a by no means negligible economy.

Part II.—Legislation Before the Emergency.

Foreign Affairs.—Two Acts relate to Czecho-Slovakia. The first (" Foreign Assistance ") reimburses to the Bank of England the ten millions advanced at the British Government's request after the Munich decisions, and confirms certain agreements (c. 6). The second (" Restriction on Banking Accounts, etc.") hurriedly validates the subsequent embargo placed on the transfer of securities and balances in view of the German occupation (c. 11).

The China (Currency Stabilization) Act seeks to check undue fluctuations in the sterling value of the Chinese dollar.

Constitutional Matters.—The Ministry of Supply Act (c. 38) contains common-form clauses for the taking of oaths, the appointment of departmental staff, the official seal, the proof and authentication of documents, and so on. The Minister, who is to have a Parliamentary Secretary, has general powers of supplying " articles required for the public service." Supply functions of other Government departments may be transferred to him ; he may finance the accumulation of reserve stocks and materials, and may require information about stocks. For the next three years he may require delivery of supplies and the carrying-out of works with priority over all other work. He may also requisition storage, appoint

controllers to carry on businesses, and direct the protection of essential undertakings in the event of war. Part of the Minister's special powers in war-time will be found to be authorized by, and exercised under, the Defence Regulations to which we shall presently be referring.

A brief Mining Industry (Amendment) Act, made necessary by the cost of the programme of coal registration, removes the limit on the salary list and expenditure of the Mines Department in any year (c. 45).

The House of Commons Members' Fund Act makes binding a scheme for deductions from the salary of every M.P. to form a trust fund for relief of ex-members, their widows and orphans (c. 49). The Public Trustee is the "custodian trustee"; there are other "managing trustees." Official scrutinies or reports by the Government Actuary or the Comptroller and Auditor-General will treat all information about grants as confidential.

A strong committee on Scottish administration, with the late Sir John Gilmour as chairman, reported in 1937 (Cmd. 5563). The Reorganization of Offices (Scotland) Act (c. 30) follows its advice. It abolishes the separate Scottish departments of education, health, agriculture and prisons as well as the Fishery Board for Scotland. Their functions are vested in the Secretary of State, who may by his orders adapt enactments to give effect to the transfer. The General Board of Control for Scotland (which deals with lunacy and mental deficiency) is also reconstructed, a Scottish Fisheries Advisory Council is set up, and the system of appointments to the staff of the Registrar-General of Births, Deaths and Marriages in Scotland is altered. It may be recalled that the structure of Scottish administration once favoured "boards" of health, education and agriculture. Though Jefferson and Mill said that boards were merely screens, the board system seemed to enable outside experts and competent volunteers to be associated with Governmental activities. The boards became "departments" under the 1928 Act to strengthen the pyramid of responsibility; now the departments disappear from the statute-book, though they survive in Edinburgh as domestic branches of the Secretariat in the new buildings on Calton Hill and elsewhere.

Defence and Preparedness.—The annual continuance of the Army and Air Force Acts (c. 17) includes a new power to billet vehicles in emergency and creates some new flying offences (flying too low or so as to cause unnecessary annoyance). There is a new itemization of the ounces of bread, butter, bacon, marmalade, meat, jam, pudding, etc., for the soldier's meals in billets. These allowances, even with the addition of some such words as "or substantially equivalent thereto," look too exact for real life; but how otherwise is an adequate meal to be defined?

Three pre-war measures indicate an intention to be prepared. The Reserve and Auxiliary Forces Act modernizes mobilization (c. 24). The old law authorized the calling-out of these forces after issue of a proclamation "in cases of imminent danger or of great emergency." This procedure was not apt for a period of prolonged tension and sudden attack. The Act allows the Crown to authorize the Admiralty and the Secretaries of State to call out the forces "if satisfied that their service is urgently required for ensuring preparedness for the defence of the realm against external danger." The Act is to run for three years. Simultaneously the Military Training Act introduces a limited form of conscription—a year's training for every male British subject between the ages of 20 and 21 ordinarily resident in Great Britain (c. 25). Members of the regular forces are, of course, exempt; so also are Government

servants employed outside Great Britain, and men of the reserve or auxiliary forces who enlisted before April 27. There are three stages—registration, medical examination, and calling up for training. The young man may apply to be registered before reaching the age of 20, or to have his year's training postponed ; cases of hardship are referred to a Hardship Tribunal. There is toleration for the conscience even at this early age. The young men may apply to be entered in a separate register of conscientious objectors on the ground of conscientious objection to—(*a*) registration in the military training register, (*b*) undergoing military training, or (*c*) performing combatant duties. On being provisionally so registered, they must apply to a local tribunal and say which of the three grounds they stand upon. The chairman of the tribunal will be a county court judge or his Scottish equivalent. Of the four other members one must be appointed " after consultation with organizations representative of workers." The tribunal can direct either—(*a*) final registration in the register of conscientious objectors, (*b*) conditional registration (involving six months' approved training of a civil character under civilian control for work of national importance), or (*c*) registration in the military training register for employment only in non-combatant duties. An aggrieved applicant can go from the local to an " appellate " tribunal, which will consist of a chairman selected by high legal authority, and two other impartial persons, one of whom again must be appointed after consulting workers' organizations.

Both in the Reserve and Auxiliary Forces Act and the Military Training Act there are provisions for expediting the acquisition of land, for reinstatement of men in their civilian employment (employers being prevented from evading their responsibilities), and for making Orders in Council about consequential matters—for instance, superannuation rights, health and unemployment insurance, hire-purchase contracts, liability for house rent and like commitments. The Military Training Act also requires education authorities to furnish information, and it authorizes the Admiralty to raise a Royal Naval Special Reserve ; young men are allowed to express a preference for naval or air force service. The Act is superseded, as we shall see, by the post-war National Service (Armed Forces) Act (c. 81).

For the protection of the home front the Civil Defence Act (c. 31) carries on what the Air-Raid Precautions Act began in 1937. First it retrospectively legalizes the Lord Privy Seal's work as the acting Minister for civil defence and it authorizes further delegation. Then come many provisions about shelters. Local authorities get wide powers of building shelters or air-raid posts ; they may construct underground car-parks suitable for use as shelters, build shelters in streets, and so on. Part of the Act concerns private shelters and training in mines and factories and commercial buildings ; occupiers and owners have new duties to protect and train their staffs. Another part concerns shelters provided by the Crown, the affixing of appliances provided by the Crown for strengthening basements, and the non-removal of shelters and appliances. Another part concerns public utility undertakers, i.e. statutory authorities conducting railway, canal, dock, gas, electricity or water enterprises. They must report to the appropriate department the steps taken to provide shelter and to train personnel in first-aid treatment, anti-gas and fire-fighting work, and must comply with any directions. A dock or harbour undertaking can be ordered to provide shelter for persons likely

to be on its premises as though they were employees. The Central Electricity Board can acquire, store and arrange to distribute stocks of plant and equipment for temporary use in case of damage due to hostile attack. The words "secure the due functioning" in section 36 have a less than pretty look to old-fashioned readers.

Black-out restrictions were likely to be dealt with by Defence Regulations if war came. Meanwhile the Act directs factories, mines and public utility undertakings to arrange for the "obscuration of lights." Departmental action may require the screening of flames or glare in industrial processes and the prevention of flames or glare from deposits of refuse which are either burning or liable to spontaneous combustion.[1] Factories and other premises may be ordered to camouflage their appearance. An important part of the Civil Defence Act places on the central health authorities special responsibility for the prospective treatment of casualties or disease; hospitals and a bacteriological service are to be organized in advance and volunteers trained in nursing. Local authorities are to accumulate medical stores and equipment and hold at hospitals (as directed) stocks of drugs, beds and bedding. They must also collect information and arrange in advance for the "evacuation of civil population." If deemed expedient in emergency, they may take possession of premises or vehicles for civil defence functions; the Commissioners of Works may also requisition premises. Water supply for putting out fires is not forgotten; stocks of building materials are to be held ready. The Minister of Transport may acquire plant and materials for repair of roads and bridges. Property in equipment, appliances or material supplied free by the Crown will remain in the Crown. There is a penalty for the unauthorized use or wearing of any civil defence uniform, medal, badge or emblem. A personal injuries scheme is to provide compensation for persons hurt in peace-time while being trained or exercised or acting as volunteers under a local authority. All these sections, with the consequential provisions involved in the contemplated interference with private property, make a bulky Act which must have set difficult drafting problems. This outline indicates the width of its precautionary scope.

Early in August the War Risks Insurance Act (c. 57) carried preparation further. The Board of Trade is empowered to operate a big scheme of marine war risk insurance with retrospective effect. It may make agreements for reinsurances against "King's enemy risks" of British ships and cargoes carried by ship or aircraft. The Board may also effect direct insurance if reasonable and adequate facilities are not available. In the event of war the Board may, by notice, put into operation a "commodity insurance scheme"; the owners of insurable goods can register them in peace-time on payment of a prescribed fee; registration secures indemnity if war breaks out, but they will then have to pay the appropriate premium. Though registration in peace and insurance in war are to be optional, there is power to compel insurance of goods in war-time if thought proper. When the commodity insurance scheme operates, no unauthorized person is to issue a policy covering the same ground; it will be a State monopoly. As we shall see, the advertisement of war risk insurance was later restricted, after war had come.

Air Navigation.—The British Overseas Airways Act creates a single

[1] For legislation which regarded burning mine-dumps as a nuisance and an offence to public health, see p. 7 below.

non-profit corporation to take over two undertakings (Imperial Airways and British Airways) which, though subsidized, had not rewarded their shareholders (c. 61). New working capital is furnished. The British Overseas Airways Corporation's powers and limitations are prescribed. It may issue Airways Stock. It may not manufacture airframes or aero-engines. It must employ Empire goods and personnel. It may be directed to reduce its charges for servants or freight of His Majesty. The whole concern may be requisitioned in emergency.

The title of the Air Ministry (Heston and Kenley Aerodromes Extension) Act is self-explanatory. Agreements are confirmed; roads may be stopped up; the Secretary of State is exonerated from land tax on the sites concerned; and there is to be compensation and a new parsonage and house for the Rector of Cranford (c. 59).

Welfare.—Miss Florence Horsbrugh, M.P., had the double success of presiding over a departmental committee on adoption agencies and piloting through the House of Commons the resultant Bill. The Committee's report in 1937 (Cmd. 5499) showed some disquieting exploitation of the child and the mother. The Adoption of Children (Regulation) Act (c.27) therefore insists on the registration of the societies in Great Britain. Each society must prove its *bona fides* as a charitable association and the sufficiency and good repute of its managers and workers. No body is to arrange an adoption except a registered society or a local authority. Regulations may look after the conduct of transactions and especially may secure that parents who propose to place a child at the disposal of a society for adoption shall be told " in ordinary language " the effect of an adoption order and the legal position of a parent. Regulations can also deal with the work of " case committees," the suitability of child and adopter, the reporting on a child's health, personal interviews with adopters and inspection of their homes, and generally with the care and supervision of children. Payment for adoption is not to be made without leave of the court; advertisements are restricted; children are not to be sent abroad for adoption. Local authorities which are " welfare authorities " will supervise the children in certain cases. In addition there is some amendment of the Act of 1926; at the end of the year a postponing Act (3 & 4 Geo. VI, c. 2) amends the amendment.

Scottish law enables courts to make orders for the custody, maintenance or education of minors who are pupil-children (boys up to the age of 14 and girls up to that of 12). The Custody of Children (Scotland) Act enables orders to be made in future for minors up to the age of 16 (c. 4).

The Mining Industry (Welfare Fund) Act raises the levy on royalties from a halfpenny to a penny per ton of the output of the mine, and constitutes a Miners' Welfare Commission (c. 9). The Mineworkers' Federation and the Mining Association will have a say in the choice of three apiece of the ten members; a seventh member will be appointed after consultation with the persons liable to pay the levy.

Two Acts indirectly aid the Government's campaign for physical fitness. The Access to Mountains Act (c. 30) gives the " hiker " in England a modified *jus spatiandi*, thanks to the good will shown at conferences between ramblers' associations, the Commons and Footpaths Preservation Society, landowners and sporting interests. Owners and occupiers are not to exclude anyone from going on land within the Act during the period from an hour before sunrise to an hour after sunset " for

the purpose of air and pedestrian exercise." But he must observe any conditions contained in an order made by the Minister of Agriculture and must obey fifteen restrictions laid down in section 6. These check the driving of caravans or cars, lighting of fires, disturbance of animals, birds or fish or eggs or nests, bathing in contravention of a prohibition, hunting, shooting or fishing, damage to land, plants, trees, watercourses or fences, neglect to shut gates, leaving litter, behaving in a disorderly or indecent manner, holding political meetings or otherwise annoying other people. If public access is likely to start fires "in any exceptional conditions of weather for the time being prevailing," entry may be prohibited. The land to which the Act applies is land for which the Minister makes an order, being land which he considers to be "mountain, moor, heath, down or cliff." It must not be land developed for building or for residential, commercial, or industrial purposes, or a burial ground or sewage farm, or a place for testing weapons or explosives, or agricultural land, plantations, parks and pleasure grounds, golf courses, racecourse, aerodromes, local authorities' property, and so on. There is some protection, too, for water supplies and other interests. Local authorities can contribute towards facilities for the public or works for protecting landowners, notice-boards and like objects.

The Camps Act (c. 22) fosters something which may be useful in war-time (if populations must be dispersed) as well as in peace. Public money is provided for non-profit-making companies (one for England and Wales and one for Scotland) to build and manage "camps of a permanent character." There is machinery for land acquisition, exemption from building restrictions, and an arrangement for finding work for the unemployed.

Health.—The Cancer Act (c. 13) puts on local authorities in England and Scotland the duty to arrange for adequate facilities for treatment within their district, including diagnosis, hospital treatment and, in necessary cases, travelling expenses. They are to consult the governing bodies and medical and surgical staffs of the voluntary hospitals and the local organizations of registered medical practitioners. Public funds make their contribution according to local needs. The Minister of Health may lend money to the National Radium Trust to finance increased supplies of radium. Not least important, no one is henceforth to advertise offers of cancer treatment or remedies or advice, or to refer to any article in terms calculated to lead to its use in cancer treatment. There is a saving for advertisements sent to doctors, nurses and chemists, Members of Parliament or voluntary hospital managers, and for publication in technical journals.

A Public Health (Coal Mine Refuse) Act for England (c. 58) and another for Scotland (c. 23) deal with smouldering pit-heaps or "bings" as a matter of health; they are equally a danger as beacons to night-flying enemies in war-time. Refuse liable to spontaneous combustion is deemed prejudicial to health or a nuisance, though proceedings are not to be taken except with consent of the central health authority. In Scotland, and impliedly in England, it will be a defence to prove that the best practicable means have been taken to prevent the danger.

Housing.—Many people build houses with advances from building societies. The litigation conducted by Mrs. Borders suggested that the societies sometimes acted *ultra vires*—for instance, in taking collateral security from builders and others. The Building Societies Act (c. 55)

regularizes the doubtful practices, deals with the "additional security" for advances, with warranties and representations, with the valuation of security and with the payment of commissions.

Scotland has another Act relating to house-building subsidized from central or local funds (c. 3).

Unemployment Insurance.—Lord Amulree's committee reported, in 1938, on the extent to which employed workpeople were already getting, or might further get, holidays with pay (Cmd. 5724). The Unemployment Insurance Act (c. 29) attends to the effect of these holidays upon unemployment benefit and payment of contributions and deals with benefit during unpaid holidays. Henceforth, insured contributors will not be deemed "unemployed" on any day on which they are on holiday. Among other amendments of the general law, the increased benefit which a man gets for certain adult dependants (his wife, infirm father or widowed mother, or a woman looking after his dependent children) is extended to an unmarried or widowed daughter or sister; and the Minister of Labour may provide training courses not only for persons between 16 and 18 who have no work or are only in part-time or intermittent work, but also for serving seamen, marines, soldiers and airmen.

Agriculture.—Increased subsidies for oats, barley subsidy schemes (under a Barley Advisory Committee) with legal backing for their enforcement, and fat sheep subsidies planned by the Livestock Commission are contained in the Agricultural Development Act (c. 48). There are grants for ploughing up grassland during 1939 and bringing the land "into a state of cleanliness and fertility." The Minister of Agriculture may acquire and store reserves of agricultural machinery. A short-term Milk Industry Act (c. 46) gives Exchequer contributions to milk marketing boards towards premiums for encouraging "quality milk." Money is also provided for the milk-in-schools scheme and for cheap milk schemes for expectant or nursing mothers or children under five. There is assistance, too, for the market for milk used in making butter or cheese.

The stimulus of State grants is also visible in amending Acts about bacon and wheat. Compensation is available for falls in the price of lard, an important by-product of bacon-curing (c. 10). The definition of flour and wheat offals in the Wheat Act of 1932 brought trouble in *R. W. Paul Ltd.* v. *Wheat Commission.*[1] The Wheat (Amendment) Act, in remedying this with a new definition of "wheat by-products," adds minor modifications (c. 37). The Wheat Commission may now make grants and loans for research and education in the growth, marketing or use of wheat.

Part of the Prevention of Damage by Rabbits Act (C.43) is agriculturally significant. Local authorities can serve notices on occupiers of land "to take such steps as are reasonably necessary for the destruction of the rabbits, or, if the land is kept as a warren for breeding rabbits, to fence the warren so as to prevent the animals' escape." The local authorities may themselves assist the occupiers by employing persons and providing appliances at a reasonable charge. Part of the Act (and here the University of London Animal Welfare Society was actively interested) is humanitarian. Cyanide being the least cruel method, it is not to be an offence to use poisonous gas "in a rabbit-hole"; the use of a spring trap for killing hares or rabbits "except in a rabbit-hole" is prohibited. The Act does not apply to Scotland, Northern Ireland or London.

[1] [1937] A.C. 137.

Crimes of Fraud.—Though statutes cannot protect all sheep from all wolves, two Acts of 1939 make things harder for the wolf. When section 356 of the Companies Act forbade house-to-house share-pushing, the wolves found a loophole by proceeding from a house in one street to a house in another street or another town. The Factor, Spiro and other scandals led to the setting-up of the Bodkin Committee whose report (Cmd. 5539) appeared in 1937. The Prevention of Fraud (Investments) Act (c. 16) allows securities to be dealt with by members of " recognized " stock exchanges or " recognized " associations of dealers, by the Bank of England, statutory or municipal corporations, dealers exempted by Board of Trade order (presumably reputable finance houses and banks), industrial and provident societies, building societies, and managers or trustees under " unit trust schemes " authorized by the Board. No one else must deal in securities unless he has a principal's licence (which will not be granted unless he deposits £500 in the High Court) or a representative's licence (the licence of a principal's servant or agent). The Board of Trade can refuse or revoke a licence on grounds stated in the Act. Before doing so, it must tell applicant the particular matter on which the decision will depend, and give him the chance of appeal to a tribunal of three, two of whom must have legal experience and the third experience in finance or accountancy. The Board can make rules for the conduct of business by licensed dealers, and must publish a list of them, with their names, addresses and nationality, at least once a year. Two sections seek to prevent the abuse of registration under the Industrial and Provident Societies Acts—an umbrella which has not always sheltered the right people—and under the Building Societies Acts. The general criminal law is fortified as regards fraudulent invitations to invest and the distribution of predatory circulars.

The second statute against fraud checks those who prey upon the benevolent. Existing law protected war charities and blind persons' charities ; the Vagrancy Act has something useful, and street collections came under regulation in 1916. A Home Office committee on bogus charitable collections in 1927 was followed by a Government Bill in 1929. Now comes an Act at last (c. 44). It speaks mainly of the " collection for a charitable purpose," but the definition of " collection " in the penultimate section limits the word to " an appeal to the public, made by means of visits from house to house . . . " ; its title, the House to House Collections Act, reflects the limitation. No collection for a charitable purpose is to be made except under licence. The local chief officer of police is the licensing authority; the grounds for refusal are specified. The police may allow a collection " for a purpose local in character " if " likely to be completed in a short period of time " ; and the Home Secretary may exempt the big national charities (such as the voluntary hospitals), so that they need no licence. Home Office regulations may require and control the use of badges and " certificates of authority," may govern the issue, custody, production and return thereof, and oblige collectors to produce their credentials to the police on demand, may insist on publicity for the expenses, proceeds and application of the collection, and may provide for preventing annoyance to the occupiers of houses. The police may make a collector give his name and address and sign his name.

Crimes of Violence.—Distasteful but necessary, the Prevention of Violence (Temporary Provisions) Act gives the Secretary of State new powers " with a view to preventing the commission in Great Britain of

acts of violence designed to influence public opinion or Government policy with respect to Irish affairs" (c. 50). If "reasonably satisfied" that people in Great Britain are concerned in preparing or instigating such acts or knowingly harbouring other persons so concerned, he may make "expulsion orders" requiring them to leave the country. He may also make "registration orders" directing them to give the police their full name and address and any change in these particulars, to be photographed and measured and to report to the police as required. If these persons have not been ordinarily resident in Great Britain for the past twenty years, there may be a "prohibition order" excluding them from entering or being in the country. Notice of an order will explain to the recipient his right to object and make representations to the Secretary of State within 48 hours; there must be a periodical report to Parliament of the numbers of orders and persons concerned. There are supplementary powers of search and detention. Constables may arrest without warrant on reasonable suspicion and may detain the suspect for a limited time during which his photograph and measurements may be taken. The Act has a life of two years.

Law Reform.—The Law Revision Committee, having worked for two years on the antiquities, anomalies and complexities of the Statutes of Limitation, reported in 1936 (Cmd. 5334). The new Limitation Act (c. 21) brings order out of chaos. A uniform period of six years is fixed for common-law actions; the 20-year period for an action upon a specialty (an instrument under seal) is reduced to 12 years with some exceptions; the limits for actions about land are tidied up. The period in which the Crown and spiritual corporations can bring actions to recover land is cut down from 60 to 30 years, except in the case of Crown rights to foreshore. The immunity of public authorities is revised. Previously one could not sue a public authority (except under contract) outside six months; the period is extended to twelve. All these provisions are subject to Part II of the Act which covers the position of persons under disability, namely infants, lunatics and convicts; the old disability for absence from the realm disappears. The disability limitation is six years with a special provision for claims of infants and lunatics against public authorities which requires careful study. Part II also deals with the effect of acknowledgment, part payment, fraud and mistake. The Law Revision Committee drew attention to the incomplete repeal of various enactments by the Public Authorities Protection Act, 1893, the repeal being limited to so much of the Acts as related to "any proceeding to which this Act applies." The Committee recommended that the dubious survival of these enactments should now be terminated; unfortunately this was not found possible.

Marriage Law.—The Marriage Act simplifies preliminaries for the parties where one of them lives in England and the other in Scotland (c. 33). The Marriage (Scotland) Act (c. 34) carries out certain recommendations of Lord Morison's committee which reported in 1936 on the law of Scotland relating to the constitution of marriage (Cmd. 5354), after examining "irregular" marriages in Scotland and the commercialized glamour of Gretna Green. This Act does not touch religious ceremonies. An important type of irregular marriage is that by declaration *de presenti*, based on mere interchange of consent. It is often difficult to prove; if unregistered, it needed to be established in the Court of Session. As the committee recommended, a simple form of civil marriage contract, made

in the office of an authorized registrar after publication of due notice of intention to marry, is substituted. All these marriages before a registrar will be registered forthwith. After abolishing marriage by declaration *de presenti*, the Act also abolishes marriage by promise *subsequente copula*, a rarely found form which Scotland had no desire to retain. It does not, however, adopt the Morison committee's suggestion of abolishing marriage by cohabitation, or habit and repute. For marriages at short notice a licence can be obtained from the sheriff without the need of publishing notices or banns. A Marriage (Validity) Act (c. 35) concerns solemnizations in England after publication of banns in a church in the Irish Free State or Eire. The Order in Council which adapted enactments on the creation of the Irish Free State (*see* 13 Geo. V, sess. 2, c.2, s.6 and S.R. & O., 1923 (No. 405) p. 400) did not refer to the Marriages Validity Act, 1899. This might have been cured by a fresh Adaptation Order, but it was deemed inappropriate to use this process so long after 1922.

Finance.—A Defence Loans Act increases the borrowing powers under the Act of 1937 and extends the scope of "defence services" to include civil services for air-raid precautions and essential commodities reserves (c. 8).

The highly technical Currency and Bank Notes Act (c. 7) uses gold from the Issue Department of the Bank of England, set up by Peel's Bank Charter Act in 1844, to fortify the Exchange Equalisation Account. The old parity price of 85*s*. per fine ounce of gold having lost its meaning, arrangements are made for valuing the Department's assets at the current price, with weekly re-valuations. The figure of the fiduciary note issue is adjusted. There is a small change in the issue and payment of Bank of England notes of £5 and upwards. A dead section in the 1844 Act (under which the Department issued notes for gold at the 85*s*. price) is repealed. The pre-war Finance Act (c. 41) increases tobacco, sugar, motor-car and estate duties, but reduces the entertainments duty on stage plays. The income-tax clauses are mainly concerned with interconnected companies and investment companies. The armament profits duty begins its brief run.

The Hall-marking of Foreign Plate Act (c. 36) reproduces a clause which had been crowded out of a Finance Bill. In 1842 the Customs Act provided that foreign-made plate, if imported for sale, should be assayed and hall-marked as if manufactured in Britain; an amending Act of that year exempted foreign plate manufactured before 1800. This law, having become anomalous with the passage of time, is amended, at the instance of the Goldsmith's Company, by the exemption of foreign plate which is a hundred years old.

Commerce and Industry.—A Census of Production Act (c. 15) amends the principal Act of 1906 by adding fresh details on which information is required—the quantity and cost of materials used and fuel and electricity consumed.

An Export Guarantees Act (c. 5) re-enacts and extends recent enactments for encouraging oversea trade, and adds an improved definition of the munitions of war which are excluded from its scope. It is in turn partially repealed and extended by an Overseas Trade Guarantees Act which enlarges the powers of giving guarantees and authorizes the Board of Trade to acquire and dispose of the securities which have been guaranteed (c. 47).

The Cotton Industry (Reorganization) Act is a fresh step in the programme of raising prices to an economic level by cutting down com-

petitive output (c. 54). The Government does not directly undertake the management of the industry. The Act sets up several new bodies—a co-ordination Cotton Industry Board, a Cotton Industry Advisory Committee consisting of three "independent persons," a Representative Advisory Council, and an Export Development Committee. There may also be a Rayon Committee if Parliament passes a resolution to that effect. The Cotton Industry Board is to keep a register of persons engaged in the industry and merchants. Sectional schemes (which may be either redundancy schemes or price schemes) are to be transmitted to the Board of Trade for approval with a view to Parliamentary confirmation. The redundancy schemes may enable boards to acquire plant and, like statutory Luddites, dismantle it or break it up. When war came, there was a postponing statute (c. 116).

A short Patents and Designs (Limits of Time) Act regularises the practice of the Patent Office in such matters as the dates for leaving complete specifications (c. 32).

Local Government.—The big London Government Act, already mentioned, assimilates for the London County Council and the 28 metropolitan borough councils various provisions about elections, meetings, committees, dealings in land, byelaws, and so on, much as the Local Government Act of 1933 had assimilated the law for different types of English local authorities outside London. Bits of the 1933 Act did apply to London, namely, those concerned with joint committees, audit and financial returns; the rest did not. Any legislation about London bodies must be careful to specify whether it applies to the London County Council or to the metropolitan boroughs or to both, and whether the City is or is not included. The new Act, as experts will not need to be told, skilfully indicates the scope of its various sections by using the following terms of art defined in the interpretation clause:—"the county of London" (meaning the county exclusive of the City of London), "the county" (meaning the administrative county of London and thus including the City, the metropolitan boroughs and the Inner and Middle Temple) and "the local authority" (covering both the London County Council and the metropolitan borough councils). The financial enactments of the County Council are still left outstanding; but the new Act, which has to re-write law to be found in Local Acts as well as in Public General Acts, forms a valuable code. The grounds for disqualification of councillors are unified, but not completely. A member of a co-operative society is not barred from the London County Council by reason only of possessing any share or interest in a contract between his Society and the Council. But there is no like saving for metropolitan borough councillors; they must not vote on, or discuss, any contract in which they have "any pecuniary interest whether direct or indirect." For their case the new Act borrows a precedent from the Local Government Act of 1933, which enables the Minister of Health (subject to conditions imposed at his discretion) to remove any disability arising out of this disqualification for interest in a contract in any case "where the number of members of a borough council so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business" or otherwise if he thinks that "the interests of the inhabitants of the borough" justify removal.

This problem of a councillor's possible disqualification had arisen in Scotland. Was he disqualified for voting on housing questions while having the benefit of occupying a council-provided house, or for voting

on the placing of contracts with a co-operative society while a member of the society? A case was mentioned where all the members of a council occupied "council houses"; quite apart from their embarrassment in fixing rents, section 107 of the Housing (Scotland) Act, 1925, prevented their voting. A new Local Government (Amendment) (Scotland) Act brings the law for various local authorities in Scotland closer to that of England. A councillor will not be disqualified by his interest in a contract, but he must disclose the facts and refrain from discussion or voting. If the number of members thus disabled is so large as to impede the transaction of the business, the Secretary of State may remove the disability or, at the council's request and after inquiry, may himself transact it (c. 28).

A Local Government Superannuation Act (c. 18) corrects some minor consequences, not intended by Parliament, of the legislation of 1937 which repealed the Local Government and other Officers' Superannuation Act of 1922.

Miscellaneous.—There is no need to summarize routine statutes like the Expiring Laws, Consolidated Fund, Appropriation, Isle of Man (Customs), Post Office and Telegraph (Money), and Public Works Loans Acts. The brief Public Trustee (General Deposit Fund) Act, as its preamble shows, cures a technical breach of trust by the Public Trustee himself (c. 51). Since 1918 he had made an omnibus trust fund of various cash balances, invested a large part of the money and placed the rest on deposit. The investment made a profit which there was no way of distributing to possible beneficiaries; there was a risk of depreciation instead of appreciation. The practice was discontinued a few years ago; it only remained now to legalize what had happened and to let the Exchequer take the profit. A Charities (Fuel Allotments) Act extends the powers of the Charity Commissioners to deal with lands set aside in trust long ago when commons were being enclosed (c. 26). Perhaps the lands now no longer produce the peat or other fuel of the old days; sometimes the commoners are now extinct. The Commissioners will establish a scheme to adapt these otherwise irrevocable trusts to the best advanatage.

Wild duck and wild geese being threatened by land drainage, motorized shooting and other dangers, an Act extends the close time and correspondingly restricts the importation of dead birds from the Continent (c. 19).

The Coast Protection Act (c. 39) allows the Board of Trade to restrict the excavation, removal or disturbance of foreshore materials if the step is deemed desirable to prevent erosion or damage to lands (including harbour works) by the action of the sea. Public and private property have alike been suffering from the commercialised removal of sand (stimulated sometimes by the land fertility subsidies) and shingle.

Private Members' Bills often deal with cruelty to animals. In addition to the provision about trapping rabbits already mentioned, a Riding Establishments Act gives local authorities the right to send a veterinary surgeon into stables or other premises where horses are kept for hiring out or for riding lessons (c. 56). "Horse" goes so far as to include "ass," but naturally the military and police establishments and the London "Zoo" are excluded. It will be an offence to let out a horse in a condition likely to cause it suffering, or use it for riding lessons in such condition, or keep it in a neglected state, or obstruct the veterinary surgeon, or conceal a horse with intent to avoid inspection. Parliament was not ready to apply the usual remedy of registration or licensing.

Part III.—Emergency and War Period.

1914 and 1939.—The legislation of the last war was improvised ; that of the present war is, at the outset at any rate, better prepared. The precedents of the Defence of the Realms Acts of 1914 and after are followed, but with differences. The original D.O.R.A. of 1914 was passed five days after war began ; the corresponding Emergency Powers (Defence) Act of 1939 was passed more than a week before the war ; some of its resultant Defence Regulations might be wanted in the twilight period of emergency, others not till the worst happened. The titles, by the way, of this Act and many others which were hustled through Parliament in the 1939 crisis place the emphasis upon emergency rather than war. Study of the difficulties encountered in 1914 and after will perhaps explain the undoubtedly greater detail and explicitness visible in the legislation of 1939 ; every " t " is crossed, every " i " dotted.

Britain having had her warning in 1938, the draftsman had time for his task, although legislation prepared in secret is at a disadvantage. But, however much preparation had been possible, the output in the last four months of 1939 was a colossal feat of Parliamentary law-making. The first week of September was a busy one. Eighteen Acts went through on the 1st (the day before war broke out), six on the 3rd, ten on the 5th, and seven on the 7th. In the remaining weeks of the year the pace was not so hot, but the four months' total of sixty statutes was exceptional.

Legislation by Regulation and Order.—The preamble to Henry VIII's Statute of Proclamations observed in 1539 that sudden causes required speedy remedies and that to abide for a Parliament was to run the risk that in the meantime great prejudice might ensue to the Realm. Just four centuries later a national crisis demands an exceptional delegation of legislative power to agencies which will work swiftly.

In 1914 a twenty-line statute authorized the issue of regulations " for securing the public safety and the defence of the realm." In 1939 the nearly nine-page Emergency Powers (Defence) Act declares that His Majesty in Council may by Order in Council make such Defence Regulations as appear to him to be necessary or expedient for securing the public safety and the defence of the realm, the maintenance of public order and the efficient prosecution of any war in which His Majesty may be engaged, and for maintaining supplies and services essential to the life of the community.

Then follows specific authority for the regulations to:—

(*a*) Provide for the prosecution, trial and punishment of offenders against the regulations, and for detaining persons whose detention appears to the Secretary of State to be expedient in the interests of the public safety or the defence of the realm ; (*b*) empower the taking possession or control of any property or undertaking, and the acquisition of property other than land ; (*c*) empower the entering and search of any premises ; (*d*) provide for amending, suspending or applying enactments.

Explicitness is here again conspicuous ; had not the power of detention, for example, been held in the last war to be *intra vires* without specific mention? Another novelty in the 1939 Act is the express delegation of the power to delegate.

" Defence Regulations may provide for empowering such authorities, persons or classes of persons as may be specified in the Regulations to make orders, rules and by-laws for any of the purposes for which such Regulations are authorized by this Act to be made."

This clause removes any doubt which might otherwise have arisen over the maxim, *delegata potestas non potest delegari*. In the last war sub-delegation was freely practised without express sanction, but nobody challenged its validity. The 1939 Act, leaving nothing uncertain, further declares that Defence Regulations, and orders, rules and by-laws made thereunder, are to be valid notwithstanding anything to the contrary in any other Act. Two things, however, the Defence Regulations must not do ; first, they must not impose conscription in the form either of compulsory naval, military or air force service or in the form of industrial conscription ; secondly, they must not provide for trying civilians by court martial. These limitations were whittled down by subsequent statutes. The brief Act of 1914, by the way, had permitted the court-martialling of certain civilian offenders.

Another novelty in the 1939 Act is the express power (in the curiously elaborated second section) for the Treasury to impose charges in connexion with any scheme of control created by Defence Regulations. For want of such provision the Government suffered defeat in the Wilts United Dairies case in 1922 and the War Charges (Validity) Act was needed in 1925. The Treasury orders will lapse after 28 days unless approved by resolution of the House of Commons.

Lastly, Defence Regulations are to have extra-territorial effect, so that it will be possible to control ships and aircraft outside the United Kingdom and the activities of British subjects abroad. The defence legislation of Australia and New Zealand, the two Dominions which have not adopted the Statute of Westminster, also obtains extra-territorial effect in relation to ships and aircraft registered in the Dominion ; there is recognition of like laws made by India, Burma and Southern Rhodesia. Courts may hear proceedings in camera. Bearing in mind perhaps the implications of the De Keyser's Hotel judgment in 1920, the Act declares that its powers are in addition to, and not in derogation of, the prerogative powers of the Crown. One Parliamentary safeguard is introduced which was absent in 1914 ; either House can upset an Order in Council containing Defence Regulations by passing an adverse resolution within 28 days. Thus the House of Commons killed the new Regulation 42BA (sanctioning the Sunday opening of theatres) by its adverse resolution of March 31, 1941.

The Emergency Powers (Defence) Act is to run for a year, but may be extended for a year at a time on an address from Parliament.[1]

Administration and Constitutional Arrangements. —In 1916 the New Ministries and Secretaries Act directly created Ministers of Labour, Food and Shipping. In 1939 there is a Minister of the Crown (Emergency Appointments) Act (c. 77), which can be applied by Order in Council to any Minister " appointed for the purpose of exercising functions connected with the prosecution of any war in which His Majesty may be engaged." The Act was thus applied to a Minister of Home Security (who was also the Home Secretary), Economic Warfare, Information, National Service (who was also the Minister of Labour), Food, Shipping, Aircraft Production, and Works and Buildings. There are the usual provisions for appointment of staff (at such salaries as the Treasury may determine), an official seal, authentication of orders, application of the Documentary Evidence Acts, the taking of oaths, and exemption from Parliamentary disqualification. Functions exercisable by any Government department,

[1]The one-year period was increased to two years by 3 & 4 Geo. VI, c. 20, s. 1 (3).

" whether under any enactment or otherwise " (the marginal note here, possibly *per incuriam*, says " statutory functions ") may be transferred to a Minister by Order in Council in addition to any others assigned to him. The Order may adapt enactments.

" For the co-ordination of measures of civil defence " the Regional Commissioners Act (c. 76) authorizes the remuneration of anyone appointed to be a Regional or Deputy Regional Commissioner or, in Scotland, a District or Deputy Commissioner. This war-time expedient, valuable if communications with the central Government are interrupted, may contribute useful experience to peace-time devolution some day. The Act relieves the appointees from Parliamentary disqualification. The geography of the various Regions for England and Wales is not to be found in the statute or in any Order made thereunder ;[1] the delegation of specific functions to the Commissioners is to be found in Defence Regulations.

The House of Commons (Service in His Majesty's Forces) Act (c. 85) declares that, for the emergency period, nobody is to be incapable of election to, or of sitting and voting in, Parliament " by reason only that, as a member of any of His Majesty's Forces, he holds an office or place of profit under the Crown." We knew, from Section 24 of the Act of 1707, that acceptance of a new commission in the navy or army does not disqualify. But there were doubts to be resolved. The temporary 1914 Act similarly exempted commissioned officers ; in exempting any " member of any of His Majesty's Forces " the 1939 Act covered the warrant officers as well.

As in 1914, an Isle of Man (War Legislation) Act enables United Kingdom statutes passed for defence of the realm purposes to be extended to the Isle by Order in Council with any necessary modifications (c. 86). This is a quicker way than passing identical legislation through Tynwald and having it approved by Order in Council.

The Government of India Act, 1935, is amended by the addition of a section relating to the executive authority of the Federation and the powers of the Federal Legislature when the Governor-General has by proclamation declared that the security of India is threatened by war (c. 66). A proclamation declaring that her security is threatened by war or internal disturbance may be made before the actual occurrence of the war or disturbance if the Governor-General is satisfied that there is imminent danger thereof.

Defence being a subject about which Northern Ireland is forbidden by the 1920 Act to legislate, it may be noted that ten statutes of the war period expressly allow the Northern Ireland legislature to enact corresponding laws.

The Armed Forces.—As in the last war, no step must be omitted which increases the fighting strength of the country. The Armed Forces (Conditions of Service) Act (c. 68) enables men to be engaged for the duration of the emergency period. Officers and men of the Territorial Army (and the Auxiliary Air Force) may be ordered to serve overseas, notwithstanding Section 13 of the 1907 Act, which embarrassed Lord Kitchener's plans in 1914. The Military and Air Forces (Prolongation of Service) Act keeps men with the colours for the emergency period who

[1] The appointees were allotted to areas which approximately coincide with the " defence areas " set up under Reg. 16A of Defence (General) Regulations (see S.R. & O. 1940, No. 1503).

would otherwise be entitled to discharge (c. 90) ; a similar Act deals separately with the Royal Marines (c. 88).

The enlistment of men not already serving is secured and controlled by the National Service (Armed Forces) Act (c. 81). British subjects within Great Britain, between the ages of 18 and 41, can be brought within the Act by proclamations calling up particular age-groups from time to time. The men called up for service go through the stages of registration, medical examination, and receipt of "enlistment notices." The procedure and the exemptions are similar to those of the Military Training Act (already mentioned), except that the exemptions now include persons in Holy Orders and regular ministers of any religious denomination. Grounds of exceptional hardship are recognized. There are Hardship Committees, with a right of appeal to " the Umpire," the impartial figure who exercises judicial functions in connexion with unemployment insurance. There is a separate register for conscientious objectors who object to: (*a*) being registered in the military service register, or (*b*) performing military service, or (*c*) performing combatant duties. An objector must satisfy the local tribunal, and, if aggrieved, may go to the appellate tribunal, as under the Military Training Act. The present Act supersedes the Military Training Act ; it has similar provisions for reinstatement in civilian employment and for Orders in Council dealing with consequential matters.

The Navy and Marines (Wills) Act (c. 87) enables the Admiralty to dispense with the full formal requirements of Section 5 of the Navy and Marines (Wills) Act of 1865. Soldiers and airmen and men of the Merchant Navy in active service conditions could validly make a verbal will in the presence of witnesses or an unwitnessed will in their own handwriting. The Navy and Royal Marines now get the same privilege for the emergency period.

National Registration and Man-power.—Fresh statistics of population are obtained by the National Registration Act (c. 91) ; the latest otherwise available were those of the census of 1931. The Registrar-General, who is responsible for initiating and maintaining the new Register, will collect information as at the decennial census and will then issue an " identity card " to everybody. This system of cards has obvious advantages for food rationing, for instance, or for the grimmer consequences of enemy action. A constable in uniform, or any person authorized under regulations, can demand the production of the card. Regulations are to prescribe the form of the card, the particulars recorded thereon and the surrender of the card on death or departure from the United Kingdom. It is an offence to give false information under the Act or to commit forgery or other forms of fraud with the cards. The Act promotes the best use of the man-power and woman-power of the country.

This object is further forwarded by the Control of Employment Act (c. 104). Employers are not to be allowed, without the consent of the Minister of Labour and National Service, to engage (or advertise their desire to engage) employees to whom a ministerial order applies. The intention was that Orders should prohibit competition for labour in a limited number of skilled occupations where an immediate shortage was probable. Workpeople needed for vacancies of a high type of priority would not be engaged for less vital work. An Order is not to be made until a draft of it has been referred to a committee consisting of a chairman and representatives of workers and employers in equal numbers. There

is a saving for engagements effected under trade union arrangements. Inspectors for the enforcement of the Act may visit premises and request information from either employers or employees.

Other Safety Measures.—Early in the last war Parliament restricted the transfer of ships. In 1939 this step is repeated, with the added restriction on the unsanctioned sale, transfer or hire of aircraft, airframes, aero-engines or airscrews (c. 70). There is power to impose charges for grants of sanction. The penal provisions have extra-territorial effect.

Aircraft are brought within prize law by the Prize Act (c. 65) as if they were ships. The Act also extends to protectorates, mandated territories, and so on, the power under Section 2 of the Prize Courts Act, 1894, to issue dormant commissions and warrants creating jurisdiction in prize without waiting for an actual proclamation of war.

The Board of Trade obtains far-reaching control under the Import, Export and Customs Powers (Defence) Act (c. 69). Section 43 of the Customs Consolidation Act, 1876, allowed steps to forbid the importation of "arms, ammunition, gunpowder or any other goods;" but the application of the *ejusdem generis* rule cut down the scope of "any other goods."[1] The new Act will cover everything. To remove doubts, it declares that taking ships or aircraft into or out of the United Kingdom may be forbidden or regulated as an import or export of goods, although the ships or aircraft are conveying goods or passengers and whether or not they are moving under their own power. Among other safeguards the Customs and Excise Commissioners may detain goods until satisfied that a would-be exporter's declaration of the destination of his goods is true.

Trade.—The Import Duties (Emergency Provisions) Act lets the Treasury increase, decrease or remove duties under the Import Duties Act, 1932, without waiting for a recommendation from the independent Advisory Committee (c. 97).

To trade with the enemy is illegal at common law. In 1914 there began a series of statutes to elaborate the common-law restraint, to define "enemy" and deal with enemy-controlled corporations, to constitute a "custodian" trustee for enemy property, and to impose penalties. The six Acts of 1914, 1915 and 1916 are among those repealed and replaced by the Trading with the Enemy Act, 1939 (c. 89). Besides again defining "enemy" and "enemy subject," it prohibits the transfer of negotiable instruments and choses in action by enemies, and arranges for inspectors and supervisors of business, for the collection of enemy debts, for the custody of enemy property and for the work of Clearing Offices. Purchasing enemy debts is to be treated as trading with the enemy. The Patents, Designs, Copyright and Trade Marks (Emergency) Act (c. 107) enables the Comptroller-General of Patents, Designs and Trade Marks to grant licences for working the industrial property of enemies and enemy subjects or to suspend their rights. The effect of the war upon patent grants, international copyright arrangements, etc., is dealt with; the Comptroller-General may extend time-limits, having regard to war circumstances.

Stabilisation of Prices.—The Prices of Goods Act of 1939 (c. 118) has the same object as the temporary Profiteering Act of 1919. Its method is different. It empowers the Board of Trade to define descriptions of goods which shall be "price-regulated goods." The latter are not to be

[1] *Att. General* v. *Brown*, [1920] 1 K.B. 773 (prohibition of pyrogallic acid *ultra vires*).

sold above the " permitted price," *i.e.*, the " basic price " (based on the price at August 21, 1939, or other prescribed date) plus any " permitted increase." Increase is permitted if reasonably justified in view of charges due to increased cost of materials, premises, plant or rent, increased expense of manufacture, insurance premiums, wages, pensions and welfare schemes, or increased transport charges, provision for bad debts and other specified matters. The Board will fix the basic price, permitted increase or permitted price, on the application either of a body of traders or of a central price-regulation committee. There is an appeal to a legal referee ; he will have assessors, drawn from three panels of persons who are respectively (*a*) experienced in finance or accountancy, (*b*) skilled in the technical side of trading, and (*c*) qualified to represent the interests of buyers. The Act prescribes the penalties for selling above the permitted price ; on a third or subsequent conviction (if the Attorney General acts or consents) the offender may be put out of business. The Board is to appoint central and local price-regulation committees. The local committees will keep an eye on local prices, will hear representations about excessive prices (giving audience to the alleged offender if he requests) ; they then report to the central committee which, if it concurs, will ask the Board to prosecute. On a prosecution the onus is on the seller to prove that the price charged is within the permitted price. If the seller is found guilty, the buyer can either treat the sale as void and recover the amount paid, or can affirm the sale, but recover any loss sustained. The holding up of stocks is prohibited ; the shopkeeper must not refuse an offer to buy price-regulated goods at the permitted price with a tender of immediate payment ; if he stipulates that the buyer must buy any other goods or must make payment for services, or if he proposes any other conditions, he is deemed to have refused the offer to buy. There seems no protection for the community against a buyer who desires to hoard stocks. Sales by auction or for export are exempt from the Act and the rights of innocent parties are saved.

Administration of Justice.—As early as May, 1939, the Lord Chancellor introduced in the Upper House the Administration of Justice (Emergency Provisions) Bill to enable courts to carry on despite the centrifugal influences of modern war. The Bill swiftly became law when war came (c. 78). It enables the Lord Chancellor to order the sittings of the Court of Appeal and High Court to be in places and on dates as directed, to remove and redistribute legal officials and their business, to deal similarly with the Court of Criminal Appeal, the Central Criminal Court and the inferior courts, and to provide elastically for circuits and assizes. The number of jurors is reduced to seven, except for criminal trials of treason or murder or other grave issues ; the age limit of jurors is raised from 60 to 65. Jury trials in civil proceedings are cut down. Judicial vacancies in the Supreme Court or House of Lords need not be filled. There is a wide power for the Lord Chancellor to delegate his functions under the Act to any Lord of Appeal in Ordinary or Supreme Court judge authorized by him. The Supreme Court Rules Committee is temporarily superseded, the Lord Chancellor having power to make rules of court himself both for the High Court and the County Courts. There are like Acts *mutatis mutandis* for administering justice in emergency in Scotland (c. 79) and Northern Ireland (c. 105).

The difficulties of prospective litigants are, as in 1914, eased or increased by a Courts (Emergency Powers) Act, which prevents anyone

from enforcing a judgment to recover money or proceeding to levy distress, take possession of property or re-enter upon land, except with the leave of the appropriate court (c. 67). There are similar restrictions on foreclosure, bankruptcy proceedings and the winding up of companies. The court can refuse leave if the debtor or other person is in default " by reason of circumstances directly or indirectly attributable to any war in which His Majesty may be engaged." A subsequent amending Act (c. 108) hinders a mortgagee's entry into possession ; even where there is default in a money payment, possession is not to be recovered without leave of the court. These Acts applied to Northern Ireland and, with the aid of the inevitable application clause, to Scotland. Scottish application clauses, however, never interest the Englishman and seldom satisfy the Scot ; a separate and self-contained Courts (Emergency Powers) (Scotland) Act was eventually enacted (c. 113).

Trustees in War-time.—The Execution of Trusts (Emergency Provisions) Act empowers trustees, personal representatives and tenants for life to delegate the execution of their functions while on war service and for one month afterwards, notwithstanding any enactment or any rule of law or equity (c. 114). They may make a similar delegation during absence from the United Kingdom if " any reason connected with the present war " makes their return home "not reasonably practicable." The delegation must be by power of attorney properly deposited or filed. In proceedings brought against the donor of the power of attorney for any act or default of the donee, it will be a defence for the donor to prove that the donee was appointed by him in good faith and without negligence. A power of attorney must be attested by at least one witness ; it may be made either before or after the beginning of the war service period. A statutory declaration by the donee that the donor is, or was at any specified date, engaged in war service, or that in any transaction the donee is acting in the execution of the trust, shall, in favour of anyone dealing with the donee, be conclusive evidence of that fact. A donee may himself delegate a power to transfer inscribed stock. If an infant dies on war service or while absent for war reasons from the United Kingdom, acts done under Settled Land Act powers will be valid and effectual in favour of persons who had not then actual notice of the death. For the purposes of the Act under discussion no one is to be deemed to have actual notice of a death by reason only of a report that a person " is missing, or is missing and believed to have been killed " unless the death has been presumed by order of a competent court and the party concerned has notice of the order. " War service " is comprehensively defined.

Compensation for Requisitioning.—Hurriedly passed on September 1, the Compensation (Defence) Act necessarily contained provisions which a more leisurely discussion might have modified (c. 75). In the last war the owner or occupier of requisitioned property had to seek his remedy by the cumbrous process of a petition of right and was likely to be referred to a prerogative tribunal amid all the doubts which the De Keyser's Hotel case revealed.[1] This 1939 Act gives a statutory right to compensation where, " in the exercise of emergency powers " on behalf of His Majesty, land or other property has been taken or work has been done on land, with minor exceptions. " Emergency powers " here means powers under Defence Regulations or under the requisitioning clauses in the Telegraph Act, 1803, or the Air Navigation Act, 1920. Shipping disputes will go to

[1] *Att. Gen.* v. *De Keyser's Royal Hotel Ltd.* [1920] A.C. 508.

a Shipping Claims Tribunal of three members, two to be lawyers who " appear to the Lord Chancellor to have a special knowledge of commercial and admiralty law," the third to be someone who appears to have special qualifications as an average adjuster or accountant. All other disputes will go to a General Claims Tribunal consisting of not less than seven members and including judges of the High Courts of England, Scotland and Northern Ireland. The decisions of these tribunals will be final, but, at any stage of the proceedings, the tribunal may (and, if so directed by the High Court, must) state a case for the opinion of the court on a question of law. Compensation will carry interest at such rate, not exceeding 5 per cent., as the Treasury may from time to time prescribe. Compensation must be claimed within six months or such longer time as the Treasury may allow.

Dispossessed hotel-keepers and others were inclined to quarrel with the basis of compensation. The Act speaks of the sum which a hypothetical tenant would pay as rent and the sum representing the cost of making good damage ; it makes no mention of loss of profits. Thanks to the reasonable latitude left for settling claims and to the common sense shown on both sides the tribunals have had but little to do.

War Injuries (Pensions and Compensation).—The Pensions (Navy, Army, Air Force and Mercantile Marine) Act is an administrative measure transferring to the Minister of Pensions the powers and duties of the authorities controlling the armed forces in relating to pensions and grants (c. 83). The Minister's duty to care for the children of dead parents is elaborated. With Treasury consent he may make a scheme for awards to mariners for war injuries and detention, a scheme for awards to pilots, pilot-boat crews and men in the lighthouse service, a scheme for persons employed or serving in ships of the Royal Navy who would not otherwise be covered, and a scheme for compensating mariners and others for war damage to effects. " War injuries " and " war damage " are specially defined.

Apart from the armed forces and the merchant navy, the Personal Injuries (Emergency Provisions) Act empowers the Minister, with Treasury approval, to make a scheme for compensating gainfully occupied persons (or persons of other specified classes) for war injuries, and for compensating civil defence volunteers for war service injuries (c. 82). These payments may be " injury allowances " or, in case of serious disablement or death, pensions or grants. They exclude any payment under the Workmen's Compensation Acts or similar legislation. Assignments of payment are to be void ; the sums paid will not go to the creditors on bankruptcy. There is power to obtain information about earnings.

Other emergency statutes preserve the superannuation and other rights of teachers in England and Scotland (cc. 95 and 96), police and firemen (c. 103) and local government employees on war service (c. 94).

War Damage to Property.—A little group of Acts deals with the effect of damage to property. A tenant in England is often under an absolute covenant to repair ; his liability is not relaxed by the uncontemplated destruction of the premises. The Andrewes-Uthwatt Committee investigated the impact of war upon this position (Cmd. 6136) ; the Landlord and Tenant (War Damage) Act embodies its recommendations (c. 72). The ordinary tenant is relieved from his liability. Supplementary provisions are to be implied in existing leases and mortgages. The tenant may serve

on his landlord a notice either to disclaim the lease or to retain it on altered terms ; the landlord may serve a notice to avoid disclaimer. On service of a notice of disclaimer, any interested person may apply to the court to determine whether the notice is of no effect on the ground that the premises were " not unfit by reason of war damage." What with notice and counter-notice the statute works out some complicated interferences with peace-time law. Contracting-out is forbidden. The Act binds the Crown. There is special provision for ground leases, multiple leases (for example, those of blocks of flats), agricultural and mining leases, restrictive covenants and settled land. Corresponding provision *mutatis mutandis* is made for Scotland by the War Damage to Land (Scotland) Act (c. 80).

For reconstructing the homes and communal life of the people after the indiscriminate bombing of civilians two statutes place responsibility upon local authorities in England and Scotland. Under the Essential Buildings and Plant (Repair of War Damage) Act these bodies can make representations to the " appropriate Minister " that a building " essential to the welfare of the civil population " is " wholly or partly incapable of use by reason of war damage," that it can be made fit for use at a reasonable cost, and that lack of accommodation of that type makes it " essential that the building should be rendered so fit." If he is satisfied, he may (with Treasury approval) lend money to the local authority, or, in specially urgent cases, direct the authority to carry out the necessary works. He can take similar steps where someone other than a local authority is owner or occupier of the building, and he can initiate action in the case of hospitals, first-aid posts and other civil defence premises, schools and such buildings as may be specified by departmental order. Loans may also be made for reinstatement of plant. Secondly, under the Housing (Emergency Provisions) Act, local authorities can repair war-damaged buildings which are capable of being made fit at reasonable expense where houses are wanted and the owner is unable or unwilling to do the work (c. 73).

Even apart from the structural damage due to enemy attack, war creates or reveals housing shortage and suspends fresh building. In the last war these conditions led to a series of Rent and Mortgage Interest Restrictions Acts which prevented landlords from getting rid of tenants or raising rents in the case of houses occupied by munition-workers and others. These war-time restrictions have survived but were being removed, stage by stage, as accommodation was increased and as the landlord obtained vacant possession. The latest instalment of " decontrol " of controlled houses has now to be checked by a fresh Act in the series (c. 71) ; the existing statutes are continued until six months after the end of the emergency period.

As regards goods lost or damaged by war a Liability for War Damage (Miscellaneous Provisions) Act modifies statutory, common-law or customary obligations (c. 102). It applies to the bailment of goods where there might normally be obligations to insure them against loss or damage, to repair or replace them, to pay for their hire notwithstanding loss or damage, or to pay damages or compensation for such loss or damage. There are particular modifications for goods sent to a buyer on approval or " sale or return," for innkeepers, for pawnbrokers in case of fire, and for goods charged with Customs or Excise duties.

War Risks Insurance.—Reference has already been made to a War

Risks Insurance Act. The War Committee had been asked to examine the project of a mutual protection scheme ; a complete State indemnity was scarcely feasible, the burden on the Exchequer being incalculable. Meanwhile the Committee's report (Cmd. 6116) recommended the discouragement of undertakings which offered an illusory security at a range of premiums which seemed inadequate. Accordingly the Restriction of Advertisement (War Risks Insurance) Act makes it an offence to distribute circulars to the public, or to possess circulars for distribution, or to publish advertisements, except with leave of the Board of Trade (c. 120). If the Board gives leave, it may impose stringent conditions to protect the public. The Board is equipped with an advisory committee. It cannot grant permission without the committee's recommendation, but it has an absolute discretion to refuse permission.

Finance.— Wars being expensive, a second Finance Act was needed in October (c. 109). It increases the taxes on beer, spirits, wines, tobacco and sugar. Income-tax, surtax and estate duties are up, and the rise in income-tax (from 5*s.* 6*d.* in the first quarter to 7*s.* 6*d.* in the last three quarters of the year) involves problems of retrospectivity. There is a concession for taxpayers whose earned income has, for reasons due to the war, dropped 20 per cent. or more below the assessment figure. The reliefs and allowances are pared down. The armaments profits duty is repealed and replaced by an excess profits duty. The technical framing of its provisions for computing standard profits, for taxing inter-connected companies and for relating the new tax to income-tax and to the national defence contribution, must have been far harder than it is made to appear.

A short Income Tax Procedure (Emergency Provisions) Act modifies the territorial basis of the functions of tax authorities (c. 99). The more mobile Special Commissioners are available for assessment purposes in place of the General Commissioners of specified districts. There are other adjustments of the functions of the assessor for a specified parish and of the Additional Commissioners for a specified division or area.

For the stupendous task of national borrowing a wide but temporary power is given by the National Loans Act (c. 117). The money may be raised " in such manner as the Treasury think fit." Money raised by National Savings Certificates may be applied for any purpose and not merely for redeeming debt. In previous years the Treasury had been given successive powers of borrowing as under earlier War Loan Acts ; these powers now become powers to borrow under the new Act. There is a general authority to convert Government securities. As in the last war, a trustee who invests in the new loans is encouraged and protected.

The Bank of England having sent its stock transfer department out of London, the Government and other Stocks (Emergency Provisions) Act is needed to modify the method of transferring inscribed stock (c. 100). Transfer will be by instrument in writing and not by entry in the Bank's books with the personal attendance of the transferor or someone who vouches for him. If communications are interrupted or if other " physical conditions " due to war make the punctual payment of coupons impracticable, delay is excused.

The Exchequer and Audit Departments (Temporary Provisions) Act dispenses with the normal procedure by which the Comptroller and Auditor General grants " credits " before the Bank of England can honour the Treasury's drafts on the Exchequer (c. 101). The possible scattering of the Treasury and the departments concerned might other-

wise dislocate the country's financial machinery. Passed on the eve of the war, with provision for its operation on such date as His Majesty might by Order in Council appoint, the Currency (Defence) Act removes the limit to the amount issuable from the Consolidated Fund to the Exchange Equalization Account (c. 64). It allows the Account's funds to be invested in securities or gold as thought best for the defence of the realm and the prosecution of war. Postal orders are temporarily made legal tender, like current coins ; so also are Scottish and Northern Ireland bank notes. Recent loans certified by the Treasury to have been granted by the Bank of England " by arrangement with His Majesty's Government " are secured by floating charges on the borrower's assets.

Education and other State Services.—The dispersal of schoolchildren and other preoccupations of local authorities make it inevitable that the raising of the school-leaving age (from 14 to 15) should be postponed. There are separate Acts for this purpose for England and Scotland (cc. 111 and 112).

The statutory plan of health insurance and contributory pensions needs temporary amendment for persons engaged in war occupations (c. 84). The " free " and " extended " insurance periods are enlarged and the pensions insurance of certain contributors is prolonged. Sickness and disablement benefit will be postponed in case of war injury. Benefit may be paid without proof of compliance with the statutory conditions. The required meetings of approved society members or delegates need not be held. The right to terminate membership of a society is suspended. Contributory pensions may be provisionally awarded.

Emergency statutes dealing with unemployment insurance (c. 92) and unemployment assistance (c. 93) give the Minister of Labour elastic powers of making regulations with the approval of the Treasury. The first of these two statutes allows a general adaptation of the Unemployment Insurance Acts to war-time conditions except that the rates of benefit or of contributions must not be thus altered ; the Minister's regulations need not be referred to the Statutory Committee. The second allows the Unemployment Assistance Act to be extended to persons distressed as the result of war and permits the payment of allowances during emergency without proof of compliance with conditions which normally would be insisted upon.

Local Authorities and Corporate Bodies.—The war has its influence on the corporate life of the country. Town and County Councils and other local bodies are too busy to attend to elections or to prepare electoral registers or jury lists or to plan boundary alterations. They and their officers are excused by the Local Elections and Register of Electors (Temporary Provisions) Act (c. 115). The Universities and Colleges (Emergency Provisions) Act (c. 106) closely resembles an Act of 1915. Part I enables bodies at Oxford, Cambridge and Durham to raise and apply capital for making good a probable deficiency in revenue. Part II concerns only the universities and colleges of Oxford and Cambridge. They can legislate without the delay and expense of the usual procedure before the Privy Council. The scope of these " emergency statutes " will cover the postponement of dates for elections or admissions to offices, the suspension of conditions of official residence or duties, the change of provisions about scholarships and prizes, and the relief and assistance of members engaged in war service. The emergency statutes of universities and colleges outside Oxford and Cambridge are authorized by the

Chartered and Other Bodies (Temporary Provisions) Act (c. 119). But the main purpose of that Act is to meet the difficulties of chartered bodies too rigidly bound by their peace-time constitutions. Section 1 allows them to apply to the Lord President of the Council who will give his directions, if satisfied that they are necessary or expedient to secure economy or efficiency in their work in war-time. But first, by a puzzling preliminary, His Majesty is authorized to empower the Lord President so to act ; a general Order in Council to this effect was, of course, promptly made. Examples were quoted to show the kind of difficulty encountered by chartered bodies. The Royal Institute of British Architects wanted to suspend election of officers ; the Chartered Institute of Secretaries wanted to avoid publishing a year-book ; the East India Committee wanted to appoint a temporary additional deputy-chairman. Section 2 of the Act concerns statutory and other bodies. Orders in Council may modify the duration of terms of office and may postpone elections and the filling of vacancies. They may also " reduce the number of persons required to constitute the corporation or body or to perform any of its functions " in the case of the Electricity Commission, the British Overseas Airways Corporation and any body which may be named in an Order (presumably framed by the Home Secretary) if each House of Parliament by resolution approves the Order.

Miscellaneous. —Three short war-time statutes of a permanent character might well have been passed in peace-time. Section 6 of the Official Secrets Act, 1920, gave the police an intrusive and foreign-looking power to cross-examine the citizen about suspected offences. This escaped attention until police authorities, faced with a minor leakage of supposedly confidential information about a criminal prosecution, used the section to compel a newspaper to disclose the source of its reporter's paragraph. Journalism mobilized its forces and a new Official Secrets Act substitutes a narrower power (c. 121). The chief constable must now obtain permission from a Secretary of State before using this procedure. Permission, however, will not be needed if he has " reasonable grounds to believe that the case is one of great emergency and that in the interests of the State immediate action is necessary."

The Solicitors (Disciplinary Committee) Act enlarges the membership of the Committee from 7 to 9 and allows the Committee to sit in two divisions (c. 110).

In those ranks of the judicial hierarchy which vaguely correspond with the English county court judge, Scotland has the sheriff, the sheriff substitute and the interim sheriff substitute. Only if the sheriff substitute were granted leave of absence for ill-health could an interim sheriff substitute be appointed in his place. A new Sheriff Courts (Scotland) Act removes this limitation, tiresome in peace-time and inconvenient in war.

Part IV.—Supplementary.

Local and Private Acts.—There were 105 Local Acts in the session but no Private Act. The local laws of Aberdeen, Kirkcaldy, the Lanarkshire County Council and the Folkestone water undertaking are usefully consolidated. An interesting example of the scope of this local legislation is the Methodist Church Act, incorporating a board of trustees upon the union of the Wesleyan, Primitive and United Methodist Churches. A new National Trust Act authorizes the taking over of a settled mansion

and land from a tenant for life in England ; one of the conditions is that His Majesty's Commissioners of Works must first certify that the house is a building of national interest or architectural, historical or artistic interest; the court can make an order. The National Trust for Scotland also has its powers enlarged in the direction of preserving buildings as well as articles of artistic or antiquarian interest ; a member of the Trust may occupy a Trust property at the best rent reasonably obtainable ; local authorities may make grants to Trust funds. Among other novelties we see the London County Council allowed to use open spaces for day nurseries for children, and the Croydon Corporation, which was exposed to copious litigation by a local typhoid epidemic ascribed to its defective water supply, allowed to settle outstanding claims and to pay compensation without proof of negligence and whether or no the plaintiffs had issued their writs within the statutory time-limit.

Church Assembly Measures.—Even in ecclesiastical matters there must be crisis legislation and the power to delegate. The Clergy (National Emergency Precautions) Measure delegates authority to the two Archbishops (or to either of them if the other is incapacitated or the see is vacant) to make regulations. These may enable bishops to issue emergency directions for the use or disuse of churches, for reducing the number of services, for granting unlimited leave of absence to incumbents or for requiring clergymen to serve outside their own parishes. These powers are specially needed for cases for war-time transfer of population. Then come provisions which repeat a temporary statute of 1917—the clergy are not to be penalized for omitting services if they are obeying directions, and, if services are suspended in any place of worship, the parishioners may have their banns of marriage published and their marriages solemnized elsewhere in the diocese as directed. If a bishopric be vacant or the bishop be incapacitated, the archbishop may appoint some " ecclesiastical person " to exercise the functions. Another clause authorizes financial adjustments in the pay of the clergy if they are either worse off or (for example, when remunerated as chaplains to the Forces) better off by reason of war conditions. At the end of 1939 a Measure postponed elections to the House of Laity during 1940. Earlier there had been two other measures ; one increased the powers of Queen Anne's Bounty, the other delegated an elastic power to establish tables of the fees to be taken by such officers as chancellors and registrars ; the orders fixing or varying the fees are to be within section 3 of the Rules Publication Act, so that they will be printed among the official Statutory Rules and Orders.

Delegated Legislation. —A total of 1,946 Statutory Rules and Orders was registered in 1939. About half of these belonged to the last four months of the year. The first three days of September, although one of them was a Sunday, produced over a hundred. The total includes Orders made under Defence Regulations, in spite of the doubt whether the grandchildren of the statute (made under regulations) could come within the words " made under any Act of Parliament " in section 4 of the Rules Publication Act. That doubt prevailed during the last war ; the grandchildren of the Defence of the Realm Acts were then excluded from the official series of S.R. & O., but were collectively published in special Manuals, all too soon to go out of date. If the doubt is not yet authoritatively settled, several Defence Regulations, by expressly excluding publication of the resultant orders in accordance with section 3 of the

Rules Publication Act, hint that these grandchildren might otherwise properly be so published.

In the two volumes of the collected S.R. & O. of 1939 we find the usual subsidiary legislation which develops the policy of the statutes and fills in the details. The subjects, as usual, range over agriculture, education, health and unemployment insurance, and other social services. There are also groups of rules of procedure for various courts, including the Faculty Jurisdiction Rules for ecclesiastical tribunals in England. There are many Treasury orders under the Import Duties Act ; there are new Patent Rules, a civil defence code for the guidance of factory occupiers, etc., and orders which transfer functions to the Ministry of Supply. In the war period there are, of course, the all-embracing codes of Defence Regulations. The big " General " code, so frequently amended, consists (as did the corresponding regulations in the last war) in part of restrictions or prohibitions complete in themselves, in part of blank powers of making orders ; Regulation 1 (forbidding " misleading acts and misrepresentation ") is an instance of the former, Regulation 55 (authorizing the general control of industry) is an instance of the latter. Other codes deal with finance, savings banks, bank holidays, and so on. Two of these special codes make copious alterations to the Trading with the Enemy Act and the War Risks Insurance Act. Another allows aliens to enter, or be commissioned in, the armed forces, notwithstanding the Act of Settlement. Another suspends large parts of the Bacon Industry, Livestock Industry, Sea Fish Industry and Herring Industry Acts, dissolves the Livestock Commission and suspends the White Fish Commission and the Herring Industry Advisory Council. A policy which limits production and raises prices is not for war-time.

H.M. Stationery Office periodically issues lists of the children and grandchildren of the Emergency Powers (Defence) Act. The codes of regulations are republished from time to time, with all current amendments inserted, in a print prepared in the Office of the Parliamentary Counsel. The print is equipped with an index and a table showing the copious exercise of the statutory power to modify Acts by regulations. This feature of crisis legislation is inevitable, but it is not exclusively a war-time phenomenon.

2. JERSEY.

[*Contributed by* R. VIBERT, ESQ., *Advocate of the Royal Court.*]

During 1939, four Acts of Parliament were registered by the Court of Jersey, and twenty-four laws were passed by the States of the Island and approved by His Majesty in Council.

Many of these, as might be expected, are in anticipation or a result of, the war, including the following :—

Essential Commodities and Other Products.—This law—approved by Order in Council dated May 5—has tragically proved to be a measure of the greatest importance. It gave to the Committee for the Defence of the Island the powers of control of import and export necessary to " parer aux éventualités " and to assure the presence in the Island of sufficient stocks of food and other essential products. It is hoped that these powers were fully exercised, for the Islands were occupied by German troops in July, 1940, and have since that date been completely cut off

from Great Britain, from which practically all food supplies had till then been drawn.

Of academic interest is the fact that the law is drafted entirely in English, except for the preamble, which is in French—the official language. This has usually been done of late years, in cases where the matter is based on similar English legislation.

Defence Loan of £100,000.—This law was approved on May 25. The loan was required for " the defence of the island and for the protection of the civil population." Air raid precaution services were organised on the English pattern, and the militia was enlarged.

Emergency Powers.—The Emergency Powers (Defence) Act, 1939, was applied to Jersey by Order in Council dated August 25. The wide powers of this Act were conferred upon the States of the Island.

Procedure.—By a law approved on December 11, power was given to the Court to postpone, or impose other conditions upon the payment of, a sum which the debtor was unable to pay because of hardship imposed by the war.

National Service.—This law, passed by the States on December 9, introduced conscription for male persons from 18 to 41 years of age, for service either in Jersey or with British armed forces overseas. Provisions are included, similar, though not identical, to those in force in Great Britain, relating to reserved occupations and exemptions on conscientious and other grounds. Though this law was in operation before the German occupation, no men had yet been actually posted. Nevertheless, a great number of Jerseymen of military age came to England before the arrival of the Nazis, and are serving with the Forces.

Of the measures which were not inspired by the war, the following are of the greatest interest :—

Clergy Pensions.—The application to Jersey, by Order dated September 5, 1939, of the Clergy Pensions (Widows and Dependants) Measure, 1936.

Fees of Advocates and Solicitors.—This law, approved on May 5, 1939, finally settled this question, by granting to the Full Court the power of establishing a tariff for all services rendered professionally by an advocate or solicitor, even in matters which were not submitted to the Courts in any way. This power was not, in fact, exercised before the German occupation, so that the tariff established by the Jersey Law Society remained in operation.

Regulations for Workmen.—Obsolete provisions of the Code of 1771, entitled " Regulations for Workmen and Craftsmen," were repealed by a law approved on June 23. Two of the provisions repealed made it an offence against the State for a workman to smoke while at work, and specified the hours of work for various trades.

3. GUERNSEY.

[*Contributed by* G. F. GRIGS, ESQ.]

In the session of 1939, most of the legislation of the Bailiwick of Guernsey (comprising the jurisdictions of the Islands of Guernsey, Alderney and Sark " and their dependencies ") consisted of a reproduction, with necessary minor local adaptations, of English enactments relative to the war. These statutes call for no special comment in this Section

of the *Journal*. The undermentioned Laws and Ordinances of 1939, however, have perhaps a more distinctive interest, viz.: (i) the Matrimonial Causes Law, and the Ordinance of the Royal Court approving and giving effect to Rules of Court (with accompanying Forms), prescribing the practice and procedure in matrimonial causes and matters ; (ii) the Royal Court (Seal) Law, and (iii) the Mental Treatment Law, and Ordinance of Regulations thereunder.

Matrimonial Causes.—The Matrimonial Causes Law (Ordre en Conseil VI, 1939) seeks to provide a practical Code for the operation of this important department of law, by way of a civil jurisdiction. Except as regards a limited aspect of separations by consent, the Law constitutes a completely new departure in the law of the Channel Islands ; and even in that matter it introduces important jurisdictional changes and alterations of practice.

English-speaking lawyers who by choice, or by the chances of their professional experience, have been led to acquaint themselves particularly with foreign systems of law, as expressed in Codes, " jurisprudence " (in the wide Continental sense of that term), and practice, will, it is believed, concur in the opinion that, for the preparation of a brand-new body of legislation for formulating and operating a law of matrimonial causes (or, for that matter, most other chapters in a modern Corpus Juris), no more copious and enlightening source exists than the intellectual—and æsthetic—richness of the Law Reports of the Anglo-Saxon world, and the scientific precision of thought and completeness of expression which characterize the professional Parliamentary draftsmanship of modern statutes in the great English-speaking jurisdictions.

When the States of Guernsey decided to equip the Bailiwick with what was colloquially called a " Divorce Law," and a Court to administer it, it was a conviction to the effect expressed above that resulted in the offer to the Royal Court and the States of a draft Code based mainly on English case-law and practice and on portions of the related English statute-law, with the relevant principles of Private International Law, the whole welded into Guernsey law and custom by suitable adaptations where necessary, and, it is hoped, by no means vitiated by certain mildly-adventurous innovations. Such, then, is the Matrimonial Causes Law (Guernsey), 1939 —la Loi ayant rapport au Divorce et à d'autres Causes Matrimoniales.

An appropriate exposition of the Law would require a somewhat lengthy article. It may be sufficient to mention here that, in print, the Law, together with its associated Rules of Practice and Procedure and Prescribed Forms, runs to 160 pages, crown octavo, apart from an analytical alphabetical index to the statute in 22 pages.

The law is enacted in 72 Articles (Sections) with numerous subsections (" paragraphs "), arranged in ten Parts. Part I.—General Provisions, includes Definitions and Interpretation, and provides, *inter alia*, for the institution of a Division of the Royal Court as the Court for Matrimonial Causes, and prescribes the jurisdiction of that Court as to subject-matter and in relation to other Courts in the Bailiwick ; as also for the constitution of the Court. Other Articles in this Part deal with Appeals ; Poor Persons ; the Investigating Officer (analogous to the King's Proctor) ; Reconciliation in proceedings for divorce or separation ; Decrees and Final Orders ; and a variety of other matters of a general or introductory character, as well as certain transitory provisions.

The other divisions of the Law are: Part II.—Divorce ; Part III.—

Judicial Separation (" including," most interestingly, and for remarkable historical reasons, separation by consent) ; Part IV.—Restitution of Conjugal Rights ; Part V.—Nullity of Marriage ; Part VI.—Presumption of Death and Dissolution of Marriage Thereon ; Part VII.—Care of Children ; Part VIII.—Property and Contributions for Support (our old friends alimony and maintenance, after some little " sea change ") ; Part IX.—Private International Law ; Part X.—Miscellaneous (which includes, with other matters, Evidence, Publication of Acts of Court, Regulation of Reports, and various Powers to the Court).

Each of the Parts II to VI begins with a statement of the conditions of the exercise of jurisdiction in that behalf, followed by a formulation of the grounds on which a petition may be presented. Thus, domicil within the Bailiwick is adopted as the sole basis of jurisdiction in divorce subject, exceptionally, to certain cases of desertion and deportation: Part I, Art. 2 (5), adapted from section 13 of Herbert's Act—the Matrimonial Causes Act, 1937. The jurisdiction in Judicial Separation and Restitution of Conjugal Rights is founded—to summarise the enactment roughly—alternatively, on domicil, matrimonial home, or residence, in the Island of Guernsey. In suits for Nullity, the condition (again subject to the above-mentioned exceptions) is (by Article 33) that the marriage was celebrated in the Bailiwick or that the parties to the marriage are domiciled in the Bailiwick when the suit is instituted. There are two important provisos to this Article, one of which is intended, *pace* Dr. Cheshire,[1] to give effect to the principle of *White* v. *White* (1937), p. 111. The point is, of course, highly arguable and, indeed, dialectically attractive ; and the line taken in the Guernsey Law in this matter implies no abatement of the gratitude and respect amounting to reverence which any of that learned author's readers must feel for treatises so lucid, masterly and full of charm as those wherewith he has illumined by " the gladsome light of jurisprudence " our paths through some of the densest thickets of legal science.

It is a consequence of the fact that this Guernsey code is a statement of law *ab initio,* and not a statutory addition to pre-existing statutes and doctrine, that, even where it incorporates accepted principles, the Law expresses itself more at large than was necessary, for example, to a draftsman in England. Thus section 7 of Herbert's Act specifies certain " new grounds for decree of nullity." Article 34 of the Guernsey Law necessarily seeks to provide a more complete formulation of the grounds available for such a decree.

Habitual drunkenness in the respondent is a ground for judicial separation ; and divorce may be decreed on the ground that the respondent " is, and has been for a period of not less than three years since the celebration of the marriage and immediately preceding the presentation of the petition, an habitual drunkard, and, by reason thereof, co-habitation of the petitioner with the respondent is a grave hardship." An " habitual drunkard " is (Art. 1) alternatively defined so as to include a person who habitually takes or uses, otherwise than in accordance with medical advice, opium or any other dangerous drug.

The Law and its accompanying Rules, etc., contain many features of historical and technical interest. Not least of these are the principles of Private International Law, concerning suits for nullity, rights of property connected with matrimonial causes, decrees in extraneous juris-

[1] *Private International Law*, ed. 2, 343.

dictions, etc.—principles of which the concise statement and the application have been attempted, particularly in Part V.—Nullity of Marriage and Part IX.—Private International Law, as well as in other places in the Law.

The Matrimonial Causes Rules.[1]—Ordinance of the Royal Court enacting, in virtue of the Matrimonial Causes Law (Guernsey) 1939, Rules of Court regulating the Practice and Procedure in Matrimonial Causes and Matters.

The preparation of the Rules and Forms profited by English subordinate legislation under the Judicature Acts, including the Matrimonial Causes Rules and many other Rules of Court, by English practice, and here again, by the wealth of English case-law. There are 70 Rules, disposed in eight Parts: Part I.— General Provisions regarding commencement of proceedings and failure to proceed ; Part II.—Petition and proceedings in connexion therewith ; Part III.—Interlocutory proceedings and proceedings for ancillary relief ; Part IV.—Decrees and Orders ; Part V.—Special provisions relating to minors and persons of unsound mind ; Part VI.—Regulations relating to Poor Persons ; Part VII.—Appeals ; Part VIII.—Miscellaneous (including Evidence, Sworn Declarations, Medical Inspection, Computation of Time, etc.

There is an Appendix of Forms (25 in number), which, by a " General Provision regarding Forms " (Rule 67) " are set out by way of example," and, " subject to all relevant specific requirements contained in these Rules, such Forms shall be followed, as nearly as may be, according to the circumstances of the suit in which they are used."

Perhaps the most interesting point in connexion with these Rules is that, for the first time in its history, Guernsey accepts the practice of " entering an appearance," long familiar in England as an office procedure, as distinguished from the ancient method—formerly our own also, and still operative in the Bailiwick—whereby the acceptance of the litigious challenge is signified by making " réponse "—a forensic appearance—the actual attendance in Court of the defendant or respondent or his advocate. It was hoped and expected that the new departure taken in these Matrimonial Causes Rules, with its great reduction of expense to parties, and its valuable saving of time in the initial stage of proceedings, particularly during the vacations of the Court, would win public approval and be extended to all branches of litigation.[2]

Seal of the Royal Court.—(Ordre en Conseil V, 1939; la Loi autorisant un Sceau Officiel pour la Cour Royale de Guernesey et l'emploi d'icelui). The desirability of facilitating proof in other jurisdictions of decrees and orders, etc., of the Court for Matrimonial Causes, led to the preparation of this Law, which for the first time authorises an official Seal for the

[1] Owing to pressure of public business arising out of the war, the Matrimonial Causes Rules and the Mental Treatment Regulations were not laid before the Royal Court, for coming into force, until 1940. Their preparation, however, was completed in 1939 ; and inasmuch as they are essential working parts of the legislative scheme in each case, and as, moreover, it may not be possible, for an indefinite time, to comment on the other Guernsey legislation of 1940, it seems convenient to describe these rules and regulations on this occasion.

[2] The writer has so far been unable to obtain, from any source, confirmation that the Matrimonial Causes Rules were actually made operative by the Royal Court. Most probably they were. When the writer's personal communications with the Channel Islands were interrupted by long illness, beginning a fortnight before the de-militarisation of the Islands, the Rules had been approved by the Law Officers of the Crown in Guernsey, and they were expected to be in force within a few days.

Royal Court and its use for " authenticating any copy of any Judgment, Decree, Order or other Act of the Royal Court or of any Division, including the Matrimonial Causes Division, thereof." The Seal may also be used, under general or specific authority given by the Royal Court or any Division thereof, for authenticating any other document or record. When the seal is affixed in accordance with the Law, " His Majesty's Greffier " (the Clerk and Registrar of the Court) " shall authenticate the same by his signature and official designation."

Mental Treatment.—(Ordre en Conseil IX, 1939.) The Mental Treatment Law provides a code which, in conjunction with the considerable corpus of Regulations prepared in pursuance of the Law, is intended to systematize the administration, on modern lines, of this important and difficult department of social endeavour. English and other legislation and medical and administrative practice were exhaustively studied in the preparation of the draft Law and Regulations, and the opportunity was used to take some forward steps, giving effect to well-considered progressive opinion in Great Britain relative to both the administrative and therapeutic aspects of the subject.

The Law is stated in 48 Articles (Sections), classified under eight Parts. Part I.—" Preliminary and General Provisions," deals, *inter alia*, with the establishment and composition of a States' Mental Health Services Board and its powers and duties, and regulates the meetings and records of the Board and its Committees. In this Part, also, provision is made for the lawful transfer of patients who are in, or on leave of absence from, any other mental hospital or institution, to the new States' mental hospital. (That hospital, incidentally, was given, by its situation amid fields of daffodils, the beautiful local name of " Le Vauquiédor,"—The Vale of Gold, a title which is recited in the Law.) Part II is concerned with the " Certification of Patients and Admission and Detention of Certified Patients "; Part III with " Guardianship "; Part IV with the " Classification of Certified Patients," viz., classification as " private " or " assisted " patients—assisted, that is, out of public funds ; Part V with the " Transfer, Temporary Removal, Absence and Discharge of Certified Patients "; Part VI with " Voluntary and Temporary Patients "; Part VII with " Special Provisions regarding Care and Treatment and Recovery ": this Part includes systematic safeguards against the inconsiderate, careless, or inhumane treatment of patients and against unfair detention. Part VIII.—" Miscellaneous Provisions," provides, amongst other matters, for the contingencies of " Escape and Retaking " of patients and for " Protection to persons acting according to law."

The Code of Regulations made and approved under the Law[1] makes detailed arrangements for the selection and appointment of the medical, nursing and other kinds of staff for mental hospitals, clinics and official bureaux, and for the welfare and discipline of the staff. It also prescribes in detail the main duties of the various officers, medical and other, while including elastic provisions for desirable adjustments and developments and discretionary usages. There is due provision for the recreation of patients and staff, as well as for that proved and promising kind of treatment, " Occupational Therapy." Many other aspects of organisation and management are dealt with in the Regulations. One Regulation inhibits any private interest, on the part of any member of the Board, in the supply of goods to the mental health services, subject to carefully-

[1] See note on page 31.

regulated exceptions in the case of grave emergency. There is a complete apparatus of Forms for the certification, admission, transfer, discharge, etc., etc., of every kind of patient, as appropriate, and of directions regarding certain kinds of treatment.

4. NORTHERN IRELAND.

[*Contributed by* Sir Arthur S. Quekett, K.C., LL.D.]

During the year 1939 thirty-nine public general Acts and one Act confirming a Provisional Order were passed by the Parliament of Northern Ireland; all these belong to the second session of the Fifth Parliament (December 6, 1938, to December 6, 1939). Four private bills for the dissolution of marriages became law in 1939 before the system of legislative divorce had come to an end by reason of statutory provisions which are reviewed in this Summary.

Divorce and Matrimonial Causes.—The provisions of the Matrimonial Causes Act (c. 13) fall into two main groups:—

(1) the conferring of jurisdiction upon the Supreme Court to decree the dissolution of marriages—thus superseding the system of divorce by a private Act of the Parliament of Northern Ireland; and

(2) the revision of the law relating to matrimonial causes and matters so as to assimilate it to the law in force in England since the passing of Mr. A. P. Herbert's Act of 1937.[1]

A study of the Northern Ireland statute has already appeared in this Journal[2], and therefore it will be sufficient for the purposes of this Summary merely to mention the chief provisions of the measure.

For the purposes of divorce, the Act gives an original jurisdiction to the appropriate judge of the High Court and an appellate jurisdiction to the Court of Appeal. The grounds upon which a petition for divorce may be made to the court by either party to the marriage are (*a*) adultery, (*b*) desertion for three years, (*c*) cruelty, (*d*) incurable insanity, and a wife can petition for a divorce where her husband has been guilty of one of certain specified offences. Where the ground of the petition is cruelty alone, the court must not pronounce a decree of divorce until the expiration of three years from the date of the marriage, unless satisfied that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part of the respondent. The court is also empowered to decree the dissolution of a marriage on the ground of the presumed death of one of the parties thereto. The Act lays down four new grounds for a decree of nullity of marriage.

A decree for divorce or nullity must in the first instance be a *decree nisi*, which is not to be made absolute until six months have expired, unless the court fixes a shorter time in any particular case; during this interval of time any person may show cause why the decree should not be made absolute, by reason of collusion or by reason of the suppression of material facts. Provision is made for the performance by the Chief Crown Solicitor, under the direction of the Attorney General, of certain functions by way of assistance to the court and by way of intervention in cases where the Chief Crown Solicitor suspects that there has been collusion, or that material facts have not been brought before the court.

[1] See *Jour. Comp. Leg.*, Third Series, vol. xxi, pt. ii, p. 5.

[2] See *Jour. Comp. Leg.*, Third Series, vol. xxii, pt. i, p. 32.

A decree of judicial separation is substituted for, and given the effect of, the former decree for divorce *a mensa et thoro*. A judicial separation may be obtained by a husband or wife on any grounds sufficient for a divorce or on the ground of failure to comply with a decree for restitution of conjugal rights. The decree of separation is not to be a bar to the subsequent presentation of a petition for a divorce.

The Act abolishes the remedy of attachment in the case of a decree for restitution of conjugal rights, and empowers the court, in the case of a wife's application, to order the respondent to make periodical payments to the petitioner. The old action for criminal conversation is also abolished and a statutory action for damages is substituted therefor. The court is given power to deal with maintenance and alimony, settlements and settled property, and the custody of children. The court has jurisdiction in a wife's matrimonial suit, where the husband, formerly domiciled in Northern Ireland, has deserted his wife or been deported from the United Kingdom and has changed his domicile.

Housing Facilities.—The Housing Act (c. 11) represents an attempt on the part of the Government to improve the housing conditions of the working class population. The Act is permissive, but if local authorities avail themselves of its provisions, the Government undertakes to give substantial financial assistance towards the expenses incurred.

Part I of the Act deals with the provision of new houses and is confined to urban areas. It is not intended that the number of houses available should be increased to any great extent, but that, in general, new houses should replace houses demolished as a result of the clearance or improvement of unhealthy areas. Houses may also qualify for a grant under the Act if built by a local authority for the purpose of abating overcrowding in their area.

It is provided that up to a maximum of £150, one-third of the cost of each house shall be borne by the Government, and housing associations, if they are non-profit-earning, can obtain Government assistance on the same scale and on the same basis as those on which it is offered to local authorities. A limit is put on the amount of the rent which may be charged for houses in respect of which a grant has been made. In the case of houses erected by a local authority the rent is not to exceed 4*s*. a week, unless the Ministry of Home Affairs is satisfied that exceptional circumstances exist which would justify the charging of a higher rent, in which case the maximum rent chargeable will be 6*s*. a week. Housing associations are permitted to charge rents not exceeding 6*s*. 6*d*. a week.

Part II of the Act, which applies to both urban and rural areas, enables local authorities, with Government assistance, to co-operate with the owners of condemned houses in converting them into satisfactory dwellings. Assistance can only be given where the local authority are satisfied that the houses are capable, at a reasonable cost, of being made satisfactory and healthy working-class dwellings, and where it is estimated that the value of the reconditioned house will not exceed £450. The maximum cost of repairs allowable for the reconditioning of a house is £150. Assistance may be given either by way of grant or by way of loan at a low rate of interest, or by a combination of both grant and loan. In the case of grants the local authority and the Government will each pay one-third of the cost provided it does not exceed £150. If it should exceed £150 the owner must pay the excess without assistance.

Where assistance is given towards the repair of a house, certain

statutory conditions attach to the house for a period of twenty years from the date on which it first becomes fit for occupation after the completion of the works. The house may only be occupied by a member of the working classes or a person whose economic condition is substantially similar, and the increased rent which may be charged is limited to an addition to the " pre-repair " rent of 4 per cent. on the owner's share of the cost of repairs.

Part III extends the powers of rural district councils by enabling them to let cottages and allotments provided by them under the Labourers Acts (Northern Ireland), 1883 to 1937, to certain classes of persons who are at present outside the scope of those Acts. It also extends the operation of the Labourers Acts until December 31, 1945.

Part IV contains certain miscellaneous and general provisions, one of which requires local authorities by whom houses are erected, reconstructed or repaired under the Housing Acts or the Labourers Acts to secure that a fair wages clause is inserted in all contracts for the erection, reconstruction or repair of the houses.

The Housing (Additional Powers) Act (c. 22) was passed to meet a need for houses caused by the anticipated extension of naval, military and air force establishments. Local authorities are empowered to provide houses for letting to persons of specified classes employed in such establishments. For the purpose of encouraging a local authority to make use of the Act, the Ministry of Home Affairs may guarantee a payment to the local authority in a case where they have borrowed money to provide the houses and the houses, having become vacant by reason that the accommodation is not required by persons of the specified classes, are let to other persons at a rent insufficient to defray the annual loan charges. The local authority for the purposes of the Act may be the council of a county borough or other borough, the council of an urban district or the council of a rural district.

Bacon and Pig Producing Industries.—The Bacon Industry Act (c. 10) is, in various respects, parallel to the measure which was passed in the previous year in relation to Great Britain, but the operation of the more important provisions of both measures was postponed under the Emergency Powers (Defence) Act after the outbreak of war.[1]

Part I of the Act provides for the framing of a factory rationalization scheme with the object of securing greater efficiency in the bacon-curing industry. The scheme is to be prepared by the Ministry of Agriculture after consultation with the interests affected, and is not to come into force until approved by resolution of both Houses of Parliament.

Under Part II the system of pig supply from producers to bacon-curers is to be based upon three main channels—(*a*) direct contracts between producers and curers ; (*b*) contracts between producers and curers made through the medium of the Pigs Marketing Board ; (*c*) in the case of the small producer, a system of registered agreements with a curer. Provision was also made for Exchequer assistance to the pig and bacon industry for the period ending December 31, 1941, and for payments, in certain circumstances, to the Exchequer.

The Act contains also provisions which modify previous legislation as respects the industry, having regard to the proposals contained in Parts I and II.

Agriculture.—The Agricultural Wages (Regulation) Act (c. 25) takes

[1] As to the postponement of the Northern Ireland Act, see S.R. & O., 1940, No. 33

a step which had been taken in England in the year 1924, and in Scotland in the year 1937, in so far as it provides for the regulation of wages of workers in agriculture. The Act also secures holidays with remuneration for those workers, if employed for time work. An Agricultural Wages Board is established, and is to consist of three members appointed by the Minister of Agriculture, six members representing the employers, and six members representing the workers. It is the duty of the Board to fix minimum rates of wages for workers employed for time work, and the Board may, if and so far as they think it necessary or expedient, fix minimum rates for workers employed for piece work. The Act gives to a time worker the right to be allowed, in respect of continuous employment with the same employer, holidays, either of six days' duration in each period of twelve months, or of one day in respect of each two months of continuous employment. A worker who is thus entitled to be allowed holidays is to receive remuneration in respect of the period of the holiday. Failure by an employer to pay wages to his worker at a rate not less than the statutory minimum rate, and failure to pay holiday remuneration in accordance with the Act, are made offences in respect of which proceedings for a penalty may be taken against the employer before a court of summary jurisdiction. The provisions of the Act are without prejudice to the operation of agreements or customs, whether for the payment of wages at a rate higher than the statutory minimum rate or for the allowance of holidays with remuneration for a number of days greater than the statutory number.

By the Agricultural Returns Act (c. 35) the Ministry of Agriculture is empowered to require returns to be furnished by the occupiers of agricultural land with relation to such matters as the utilization of the land ; the acreage of the several crops, numbers of livestock and poultry, and number of persons working, on the land ; and the agricultural machinery and stocks of seeds, fertilisers and feeding stuffs in the possession of the occupier. Agricultural statistics had for many years been collected on a voluntary basis, but the emergency provisions for compulsory tillage pointed to the necessity of placing the returns upon a statutory basis. The Act includes a provision, temporary in duration, enabling the agricultural returns to be used during the war in any manner which the Ministry of Agriculture may think necessary "in connexion with the increase or maintenance of the production of food or other essential articles by means of agriculture."

The Agriculture (Emergency Provisions) Act (c. 17) empowers the Ministry of Agriculture to take steps for the purpose of increasing or maintaining production, and for that purpose it provides for the transfer of officers of county committees of agriculture to the service of the Ministry.

Social Services.—The Unemployment Insurance Act (c. 28) provides that a person on holiday is not to be deemed to be unemployed and is not entitled to receive unemployment benefit ; and in this connexion the Act enables the Ministry of Labour to make regulations for determining when a person is on holiday, and whether unemployment insurance, national health and pensions contributions are payable in respect of payments received by an employed person on holiday.

The Act makes various amendments in the law relating to unemployment insurance. It extends the class of adult dependants in respect of whom an increase of benefit may be allowed ; it brings the code into line

with the National Health Insurance Acts in the matter of legal proceedings for non-payment of contributions and evidence at statutory inquiries; and it abolishes an arrangement under which farmers and their workers who enter into "long hirings" may obtain a rebate of unemployment insurance contributions.

Wider and more suitable provisions are enacted by the same statute as regards reciprocal arrangements between Northern Ireland and Great Britain in connexion with unemployment insurance—a matter of great economic importance in view of the movement of industrial workers from one part of the United Kingdom to another.

Elementary Education.—The Education (School-Leaving Age) Act (c. 9) postpones the date for the coming into operation of an Act of the previous year (2 Geo. VI, c. 20)[1], which had raised the school-leaving age for purposes of compulsory education from fourteen to fifteen. The postponement was in the first instance for one year.

Trade Boards.—The Act of 1923 (13 & 14 Geo. V, c. 32),[2] which governed the administration of trade boards for the purposes of fixing minimum rates of wages, enacted that before a trade board could be set up it was necessary for a provisional order to be made by the Ministry of Labour and for that order to be followed by a confirming Act of Parliament. The Trade Boards Act (c. 39) substitutes for these provisional orders a system of special orders, and sets out the appropriate procedure in the Schedule to the Act. Before an order is made the Ministry must give notice to persons likely to be affected; such persons are given an opportunity of presenting any objections which they may have to make, and the Ministry, if it does not think fit to amend the order, must direct a public inquiry to be held; at that public inquiry the objectors may appear either personally or by counsel. When a special order has been made it must be laid before each House of Parliament, where it is open for discussion and may be annulled if either House thinks fit to take such action.

The new Act authorizes the appointment of three independent members on a trade board—instead of one, as provided by the Act of 1923—where the Ministry thinks that change advisable. The gradual introduction of more complex industrial legislation, such as the Holidays With Pay Act, has added considerably to the duties of the "appointed member" as chairman of a trade board, and this provision enables some extra support to be given to him.

Registration of Hairdressers.—The provisions of the Hairdressers Act (c. 3) can be put in force in any county borough, borough or urban or rural district by an order made by the Ministry of Home Affairs on the application of the council of the borough or district, and thereupon that council becomes a local authority for the purpose of the Act. Any premises in which the trade or business of barber or hairdresser is carried on is to be registered by the occupier thereof with the local authority. The local authority is empowered to make by-laws for the inspection of premises in which the trade or business is carried on, for securing the cleanliness, lighting and ventilation of the premises, for prescribing precautions to be taken against infection, for ensuring that a person employed on the premises as barber or hairdresser has received efficient instruction, and for insurance against third party risks arising out of the

[1] See *Jour. Comp. Leg.*, Third Series, vol. xxii, pt. ii, p. 25.

[2] See *Jour. Comp. Leg.*, Third Series, vol. vii, pt. ii, p. 21.

trade or business. Breaches of the Act or by-laws are punishable, on summary conviction, by fine or by a cancelling of the registration of the premises.

Margarine and Margarine-Cheese.—The Margarine Act (c. 14) deals with the conditions to be observed on the sale by retail of margarine and margarine-cheese. It provides that the commodity is to be delivered to the purchaser in a wrapper, with the word " margarine " or " margarine-cheese " printed on the outside of the wrapper in letters of certain dimensions, and that the outside of the wrapper is to bear no other printed matter except such as may be required by or under any enactment (whether of the Parliament of Northern Ireland or of the Parliament of the United Kingdom).

Finance and Taxation.—The Exchequer and Financial Provisions Act (c. 2) makes some important extensions in the borrowing powers of the Government. It provides for the creation and issue of " new Ulster loans securities " in lieu of Ulster loans stock. The Ministry of Finance is empowered to borrow for the purpose of issues from the Consolidated Fund to fulfil guarantees given by the Ministry in respect of loans raised by the Northern Ireland Road Transport Board. Sums raised by such borrowing may also be used to finance any capital purpose in connexion with public transport for which a borrowing power may be conferred on the Ministry by some future Act of Parliament. The Act authorizes the issue from the Government Loans Fund of additional sums not exceeding in the aggregate £1,500,000. The statutory limit upon the amount of the sums which may be issued from the Consolidated Fund to the Irish Sailors and Soldiers Land Trust is removed.

A later Act (c. 16) enables the capital of the Civil Contingencies Fund to be temporarily increased " on account of exigencies arising out of the present emergency."

The Finance Act (c. 8) increases the duties on licences for mechanically-propelled vehicles. By the same Act, together with the Finance (No. 2) Act (c. 26), the rates of estate duty are brought up to the same figures as in Great Britain, and amendments of law are made as respects estate duty and stamp duty.

Law Reform.—The Evidence Act (c. 12) amends the law with respect to the admissibility, in civil proceedings, of documentary evidence as to facts in issue and with respect to proof, in civil proceedings, of instruments to the validity of which attestation is necessary. It also provides that in any proceedings (whether civil or criminal) there shall, in the case of a document not less than twenty years old, be made any presumption which before the commencement of the Act would have been made in the case of a document of like character not less than thirty years old. This Act continues the policy of assimilating the law of Northern Ireland to that of England. The law of evidence in criminal cases had been so assimilated by 13 & 14 Geo. V, c. 39.

The Infanticide Act (c. 6) re-defines the offence of infanticide, and for that purpose repeals and re-enacts the provisions of the Infanticide Act, 1922, which had been applied to Northern Ireland by the Uniformity of Laws Act (Northern Ireland), 1922 (12 & 13 Geo. V, c. 20).[1]

Emergency Legislation.—In connexion with the outbreak of war a number of emergency Acts were passed by virtue of enabling powers conferred by the Imperial Parliament in corresponding measures which

[1] See *Jour. Comp. Leg.* Third Series, vol. vi, pt. ii, p. 21.

had been enacted for Great Britain. These may sufficiently be indicated by their titles, which are as follows :—Civil Defence ; Control of Employment ; Essential Buildings and Plant (Repair of War Damage) ; Execution of Trusts (Emergency Provisions) ; Housing (Emergency Powers) ; Liability for War Damage (Miscellaneous Provisions) ; Local Government Staffs (War Service) ; National Health Insurance and Contributory Pensions (Emergency Provisions) ; Teachers' Salaries and Superannuation (War Service) ; Unemployment Assistance (Emergency Powers) ; Unemployment Insurance (Emergency Powers).

The Education (Evacuated Children) Act (c. 21) makes prospective provision for the elementary education of children, in the event of their transfer from one education area to another in pursuance of arrangements made for evacuation, and it enables schemes to be made for the assignment of school teachers in consequence of such transfers of children.

The Gas Undertakings Act (c. 38) was passed for the purpose of dealing with a minor emergency. It provides that any person employed as chief engineer, general manager or secretary of a company being gas undertakers may, notwithstanding anything contained in the Companies Clauses Consolidation Act, 1845, be appointed a director of the company, whether or not he is a shareholder in it. This enables gaps on the board of a company to be filled while directors are on active service.

Consolidation of Statutes.—The Finance (Entertainments Duty) Act (c. 23) consolidates the enactments relating to an excise duty which was first granted and charged by the United Kingdom Parliament in pursuance of the Finance (New Duties) Act, 1916. This consolidation clears a small but overgrown tract of legal country. Entertainments duty was transferred to the control of the Parliament of Northern Ireland by virtue of the Government of Ireland Act, 1920, and, both before and since the duty came into the hands of that Parliament, the law was frequently amended. In the Finance (New Duties) Act, 1916, there were only three sections which dealt with entertainments duty ; the later enactments of the United Kingdom Parliament bring that number up to seven ; and the total number of separate sections passed by the Northern Ireland Parliament is twenty-one, together with two Schedules, and these are to be found scattered through the pages of eight Acts.

By the Government Loans Act (c. 24) a number of enactments relating to a special Loans Fund, and to the making of loans thereout for local government and other purposes, were gathered together from fourteen separate statutes.

5. EIRE.

[*Contributed by* A. Denis Pringle, Esq., LL.B.]

Although Eire was not involved as a belligerent, the effect of the war is shown in several of the thirty-six Acts passed during the year.

Constitution.—The First Amendment of the Constitution Act, 1939, amends sub-s. 3 of s. 3 of Art. 28 of the Constitution (which deals with laws expressed to be "*for the purpose of securing the public safety and the preservation of the State in time of war or armed rebellion*") by adding thereto the following words, "in this sub-section, 'time of war' includes a time when there is taking place an armed conflict in which the State is not a participant, but in respect of which each of the Houses of the Oireachtas shall have resolved that, arising out of such armed conflict,

a national emergency exists affecting the vital interests of the State."

Emergency Powers.—The Emergency Powers Act (No. 28), which was expressed to be an Act to make provision for securing the public safety and the preservation of the State in time of war and, in particular, to make provision for the maintenance of public order and for the provision and control of supplies and services essential to the life of the community, enabled the Government to make emergency orders for these purposes. A long list of orders deals with the regulation of supplies, the regulation of imports and exports, the acquisition by the State of any currency (other than Irish currency) bills, credits, securities, etc., the control of navigation, the acquisition of land or other property, censorship, official secrets, the movement and detention of persons, and the search of premises and persons. It is provided that nothing in the Act shall be construed as authorizing the declaration of war or the participation by the State in any war without the assent of Dáil Eireann. S. 5 makes it an offence to contravene a provision in an emergency order and prescribes the punishment for such offence, while s. 7 provides for the hearing *in camera* of any proceedings under the Act or in relation to an offence thereunder. The Act (unless extended by the Oireachtas) is to continue in force for twelve months.

Air-Raid Precautions.—The Air-Raid Precautions Act (No. 21) provides for the making of air-raid precautions schemes by local authorities, the acquisition of land, the provision of public air-raid shelters, and the preparation of plans for the evacuation of the civil population. Part IV imposes the duty on the owners of factory premises and mines to make provision for the obscuration of lights and the camouflage of buildings, while Part V provides for the requisition of premises by the Commissioners of Public Works, the provision of State grants for air-raid shelters, the relief of air-raid protection works from rates, compensation in the event of injury to persons engaged in air-raid precautions activities, and the removal of pictures from the National Gallery of Ireland.

Offences Against the State.—Two Acts of importance in regard to the internal order of the State were passed during the year. The Offences Against the State Act (No. 13) (portion of which was declared by a Judge of the High Court (*The State* (*Burke*) v. *Lennon and the Attorney-General*, 1940, I.R. 136) to be inconsistent with the right to personal liberty as expressed in the Constitution), contained far-reaching and drastic provisions in regard to the trial and punishment of persons charged with offences against the State. Part II deals with such offences as the usurpation of the functions of Government, obstruction of the Government, interference with military or other employees of the State, the printing of incriminating, treasonable and seditious documents, the practising of unauthorized military exercises, the promotion of secret societies in the army or police, and the administration of unlawful oaths. Part III deals with unlawful organizations, their suppression, and prohibition of membership thereof, and contains provisions enabling a person to apply to the High Court for a declaration that an organization is not unlawful. S. 28 makes unlawful the holding of any public meeting and the passing of any procession prohibited by the police, within one half-mile of any building in which both Houses or either House of Parliament are or is sitting, or about to sit. Part V provides for the setting up of special criminal courts for the trial of special offences, declared by the Government to be " scheduled offences." The constitution of a special criminal court

is dealt with in s. 39, which provides that its members shall be appointed and removable at will by the Government. No person shall be appointed as such member unless he is either a Judge of the High Court or Circuit Court, a Justice of the District Court, a barrister or solicitor of not less than seven years standing, or an officer of the Defence Forces not below the rank of commandant. An Appeal lies from a conviction by a special Military Court to the Court of Criminal Appeal (s. 44). Very drastic and (according to the above decision) unconstitutional, powers of arrest and detention are contained in Part VI of the Act, and s. 55 provides that, whenever a Minister of State is satisfied that any person is engaged in activities "calculated to prejudice the peace, order or security of the State," he may by warrant under his hand order the arrest and detention of such person, who may thereupon be arrested and detained until that part of the Act ceases to be in force, or until he is released as provided for in the Act by order of a Minister. Provision is made for the setting-up of a Commission to inquire into detentions under the Act (s. 59). The Treason Act (No. 10) provides for the punishment of persons convicted of treason, which is defined by Art. 39 of the Constitution as "levying war against the State, or assisting any state or person, or inciting or conspiring with any person to levy war against the State, or attempting by force of arms or other violent means to overthrow the organs of Government established by the Constitution, or taking part, or being concerned in, or inciting, or conspiring with any person to make or to take part or be concerned in any such attempt." S. 1 provides that a person who commits treason within the State, and a person who is an Irish citizen or ordinarily resident within the State, and who commits treason outside the State, shall be liable to the death penalty, but it also provides that no person shall be convicted of treason on the uncorroborated evidence of one witness. Encouraging, harbouring, or comforting persons guilty of treason is a felony punishable by a fine not exceeding £500, or by penal servitude for a term not exceeding twenty years, or by imprisonment not exceeding two years, or by both such fine and penal servitude or imprisonment. Misprision of treason is a felony punishable by penal servitude (maximum five years) or imprisonment (maximum two years).

These are the most important statutes passed during the year, and the remainder of the legislation is, for the most part, of purely local interest and is therefore dealt with in less detail below.

Finance.—The Finance Act (No. 18) raised income-tax by 1*s.* to 5*s.* 6*d.* in the £; increases were also made in the surtax rates, and personal allowance was reduced by £5. Profits of sweepstakes under the Public Hospitals Act, 1933, are exempted from income-tax under Schedule D. The Customs and Excise duties on tobacco are increased (s. 9). Entertainments promoted by the Contract Bridge Association of Ireland are exempted from entertainments duty (s. 17).

The Finance (No. 2) Act (No. 33) provided that payments or deductions of income-tax within two months after 5th day of April, 1940, in respect of income-tax for the year beginning on that date, shall be at the rate of 6*s.* 6*d.* in the £. Increases on the duties on sugar, tobacco, beer and spirits, and on estate duty on estates over £10,000, are also contained in this Act.

Fisheries.—The Fisheries Act (No. 17) makes important amendments in the existing Fisheries Acts, in respect of such matters as the election of Boards of Conservators, the recovery of fishery rates, the inclusion of

the period from October 13 to 31 in the close season, the construction of free gaps in fishing weirs, the restriction of the use of nets in fresh water and tidal waters, the restriction of netting in public fisheries in tidal waters, and restrictions on the sale, exportation and importation of salmon and trout. Part IV of the Act contains provisions facilitating the proof of the existence of a several fishery in tidal waters. Where a fishery in tidal waters was for a period of not less than *sixty* years prior to 1932 included as a rateable hereditament in a valuation list, such fishery shall be deemed to be a several fishery. Part V provides for the transfer to the Minister of certain several fisheries in tidal waters, for the payment of compensation to the owners thereof and to employees thereon, for the acquisition of land by the Minister for the purposes of such fisheries, and for the management, operation and disposal of such fisheries by the Minister. Other provisions of the Act deal with the power of the Minister to lease fisheries for research purposes, the trial of offences under the Acts and the proof of by-laws.

Land Laws.—The Land Act (No. 26) adds still another Act to the already complicated Land Purchase Code. It mainly consists of amendments of the earlier Acts, filling up loopholes in the already extensive powers of the Land Commission. By s. 5, dwelling-houses of which the Land Commission is the landlord are excluded from the provisions of the Increase of Rent and Mortgage (Restrictions) Acts. The Land Commission may by order extinguish easements and rights of tenancy on land acquired or purchased by them subject to the payment of compensation, and power is given for the Land Commission to take steps, by the acquisition of land or otherwise, to prevent the blowing or drifting of sand which is causing, or likely to cause, injury to any land.

Ministers and Secretaries.—The Ministers and Secretaries (Amendment) Act (No. 36) creates a Department and Minister of Supplies, provides for a Minister without portfolio, and for the transfer by the Taiseach (Prime Minister) of departments of State from one Minister to another. S. 9 deals with the delegation of Ministerial powers and duties to parliamentary secretaries, who are given a right of audience, in the case of those who are members of Dáil Eireann, in Seanad Eireann, and *vice versa*.

Tourist Traffic.—The Tourist Traffic Act (No. 24), stated to be " An Act to make further and better provision for the encouragement and development of the tourist traffic," provides for the setting-up of an Irish Tourist Board with power to acquire land compulsorily, to build and operate hotels, etc., to engage in any kind of publicity in connexion with tourist traffic and to prepare and publish guide-books, etc. Part III provides for the registration of hotels, guest houses, holiday hostels, youth hostels, and holiday camps, and prohibits the description of premises as such unless registered. Provision is also made for the inspection of registered premises, and for the display of lists of charges, and such external signs as may be required by the Board. In respect of areas declared by the Minister for Industry and Commerce, the Board may be authorized to keep registers of boarding houses, camping sites, restaurants, cinemas, theatres, sports grounds, and local transport services in such areas.

Town Planning.—The Town and Regional Planning (Amendment) Act (No. 11) amends and extends the similar Act of 1934, and in particular in regard to road plans for the improvement of existing roads and the making and prohibition of the making of new roads. S. 29 enables a

local authority in pursuance of a road plan to construct any new road or improve any existing road (whether it is or not a public road) on private land at the cost of the owner of such land.

Waterford.—The Waterford City Management Act (No. 25) is a comprehensive Act dealing with the administration and management of the business and financial affairs of the County Borough and providing for its future extension. It provides for the appointment of a city manager to perform all the duties of the corporation, other than those which are expressly reserved to the Corporation by the Act, such as (*a*) the making of any rate or the borrowing of moneys, (*b*) making by-laws, (*c*) making an order by virtue of which an enactment is brought into operation, (*d*) the nomination of a candidate for the office of President of Ireland, (*e*) parliamentary and local elections, (*f*) the determination of the salary of the Mayor, (*g*) the disposition of lands, other than by demise, for a term not exceeding one year. The Minister is given power to provide for other functions and duties to be exercised by the Corporation.

6. ISLE OF MAN.

Thirty-three Acts were passed in 1939 and a number of them, such as the Evidence Act, followed the terms of English legislation. Other subjects in the same category are road traffic, the sale of ice-cream, population statistics, Sunday trading, inheritance (family provision), hire purchase, and charitable collections.

The work of the session included measures consolidating the law relating to national health insurance and another dealing with widows' and old age pensions. A third Act revised the constitution and powers of the Board administering these Acts.

Towards the end of the session war conditions made their influence felt in Acts dealing with the war services of teachers, compensation for personal injuries and emergency arrangements for the administration of justice.

II. NORTH AMERICA

1. DOMINION OF CANADA.

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The Fourth Session of the Eighteenth Parliament began on January 12, 1939, and closed by a prorogation on June 3, 1939. Of the 116 Acts passed fifty dealt with divorces, fifty-three were public, and thirteen were private.

Agriculture.—With a view to assisting and encouraging co-operative marketing of agricultural products, the Agricultural Products Co-operative Marketing Act, 1939, provides that the Minister of Agriculture may, by agreement with a selling agency, undertake that if the average sale price of an agricultural product produced during the year delivered to the selling agency under one or more co-operative plans is less than a sum fixed by the agreement, there shall be paid to the selling agency the amount, if any, by which the initial payment (i.e. the sum paid to primary producers at the time of delivery by them of any agricultural product pursuant to a co-operative plan) exceeds the average sale price. No

agreement is to be made under the Act, however, unless the co-operative plan applies to such a proportion of the primary producers within a certain geographical area or to such a proportion of an agricultural product produced in the area that the Minister is of opinion that the marketing of the product under the co-operative plan will benefit the primary producers. The Act came into force by proclamation as of July 22, 1939.

C. 50 provides measures for assisting the farming industry in any emergency year—i.e. a crop year in which the average price is less than eighty cents per bushel and declared by the Governor-in-Council as an emergency year. This Act permits the Minister of Agriculture to award to each farmer in a township a sum, by way of assistance, to be computed as follows: (1) If the average yield of wheat in the township is found by the Minister to be more than eight and not more than twelve bushels per acre, the award is to be ten cents per acre of the cultivated land of the farmer for each cent or fraction thereof, not exceeding ten, by which the average price is less than eighty cents per bushel; (2) If the average yield of wheat in the township is found by the Minister to be more than four and not more than eight bushels per acre, the award is to be $1.50 per acre; (3) If the average yield of wheat in the township is found by the Minister to be not more than four bushels per acre, the award is to be $2 per acre. No award, however, is to be made with respect to more than one-half of the cultivated land of the farmer nor with respect to more than 200 acres of the cultivated land of the farmer. The crop year commencing August 1, 1939, will for the purposes of this Act, be deemed to be an emergency year. Whenever the Minister finds that the average yield of wheat, as a result of anything other than hail, is five bushels per acre or less in each of not less than 135 townships in Saskatchewan or 100 in each of the provinces of Alberta and Manitoba, the Governor-in-Council may declare the provincial area to be a crop failure area, and the Minister may award to each farmer in a crop failure area by way of assistance a sum of $200, or a sum not exceeding $2.50 per acre with respect to half the cultivated acreage of the farmer not to exceed 200 acres, whichever is the greater. The province of Alberta and the Peace River district of the province of British Columbia will for the purposes of this provision be deemed to be one province.

The Livestock and Livestock Products Act, R.S.C., 1927, c. 120, is repealed and a new Act substituted by c. 47. (*See* Grain Trade, *infra*.)

Customs and Excise.—C. 43 amends the Excise Act, 1934, by providing that there shall be paid on every gallon of the strength of proof used in any bonded manufactory in the production of vinegar a duty of sixty cents, and so on in proportion for any greater or less strength than the strength of proof and for any less quantity than a gallon. This amendment came into force on April 26, 1939.

The Customs Tariff has also been amended in many particulars, too numerous to mention here in detail. (*See* c. 41.)

The Special War Revenue Act has been amended by c. 52. The tax on small packages of matches has been slightly changed, and there is imposed an additional excise tax of 3 per cent. on the duty-paid value of all goods imported into Canada subject to entry under the General Tariff payable by the importer or transferee who takes the goods out of bond for consumption at the time when the goods are imported or taken out of warehouse for consumption. When raw furs imported into Canada are

exported therefrom, a drawback of the tax paid may be granted under regulations to be made by the Minister. The tax so imposed does not apply to certain articles, including goods the duty-paid value of which does not exceed $25, when imported by mail or express or by the owner thereof when entering Canada unless more than one entry of such goods be made by one importer during one day from one country, in which case the tax will be applicable. The Customs tariff is also amended in respect to other articles, too numerous to mention in detail here.

Defence Purchasing Board.—C. 42 was passed for the purpose of establishing a Defence Purchasing Board to control the awarding of contracts for the manufacture of defence equipment and the construction of defence projects, to limit costs and control profits in respect of the contracts, and to authorize the raising by way of loans of certain sums of money for such purposes. The Defence Purchasing Board is to consist of not more than four members, namely, a chairman and not more than three members appointed by the Governor-in-Council who are to hold office during good behaviour for five years. The Board has plenary powers for the purpose of enforcing the provisions of the Act. The Act came into force by proclamation as of July 14, 1939.

Films.—C. 20 provides for the establishment of a National Film Board for the production and distribution of national films.

Financial.—The Small Loans Act, 1929 (c. 23) has been passed to make effective the provisions of the law relating to interest and usury, particularly in reference to small loans, the principal object of the Act being to prevent the exaction of exorbitant interest, in the guise of discount, commission, brokerage, chattel mortgage and recording fees, fines and penalties, fees for enquiries, etc. Under the Act the cost of small loans is regulated, and a moneylender is required to obtain a licence from the Minister of Finance before he transacts business. Furthermore, the Criminal Code has been amended by c. 30 to provide a penalty for moneylenders who offend against the provisions of the law relating to usury. Both the Small Loans Act and the amendment to the Criminal Code came into force on January 1, 1940.

C. 40 was passed to establish a Central Mortgage Bank, with a view to co-operating with the mortgage companies for the purpose of adjusting mortgages on farms and homes. The Act was proclaimed as of July 14, 1939, but on account of the war at present in progress the Mortgage Bank has not yet come into actual operation.

Fisheries.—C. 44 amends The Fisheries Act, 1932, by providing that where the Minister of Fisheries determines that the provision, which he deems necessary for the public interest, of an efficient fishway or canal around any slide, dam, or other obstruction is not feasible, or that the spawning areas above such slide, dam or other obstruction are destroyed by reason of any such obstruction, the owner or occupier of any such slide, etc., shall from time to time pay to the Receiver-General such sum as may be assessed against him by the Minister for the purpose of constructing, operating and maintaining such complete hatchery establishment as will, in the opinion of the Minister, meet the requirements for maintaining the annual return of migratory fish.

C. 51 provides for the constitution and functioning of a Salt Fish Board, for the purpose of meeting the situation produced in the Eastern provinces of Canada with relation to fishermen producers, whereby they were unable to obtain for fish intended for export prices sufficient to enable them to

continue production of fish for such purpose. The Board is empowered to make investigations and to devise and recommend plans for the orderly marketing of fish, salt or to be salted, with a view to improving conditions and bringing greater returns to the primary producer and the exporter. The Act was proclaimed as of June 24, 1939.

Food and Drugs.—S. 3 amends the Food and Drugs Act with respect to the definition of the terms " drug," " medicine," " cosmetic," and " manufacture," and by providing that the Department may order that the manufacturer of any article of food or drug shall furnish a declaration that the article has been made in accordance with all requirements of the Food and Drugs Act and the regulations thereunder. If importation is sought for any shipment of such article of food or drug, the Customs entry will be refused if the shipment invoices and bills of lading are not accompanied by duly certified copies of the declaration. A penalty is also imposed upon any person who advertises any food or drug in a manner which is misleading or likely to create erroneous impressions regarding its value, composition, merit or safety. Responsibility for the advertisement rests upon the person who causes the advertisement to be issued and not the printer, publisher or other party who issues the advertisement in good faith. The amendments also provide that the Act shall not apply to any packaged food or drug not manufactured or sold for consumption in Canada, the package whereof is marked in distinct overprinting with the word " Export," and is the subject of a certificate that the package and its contents do not contravene any known requirement of the law of the country to which it is or is about to be consigned. The term " cosmetic " is defined as meaning any material intended to cleanse, improve or alter the complexion, skin, hair, or teeth, and includes deodorants and perfumes ; and " drug " is deemed to include all medicine for internal or external use for man or animal ; any substance, mixture of substances and any article that may be used for the diagnosis, treatment, mitigation or prevention of disease in man or animal ; any cosmetic ; any material that may be used for disinfection in premises in which food is manufactured, prepared or kept, or for the control of vermin in such premises. The amendments, with the exception of the new definition of " drug " and those portions which deal with cosmetics, came into force on August 1, 1939, by proclamation.

The Meat and Canned Foods Act is amended by c. 19, so that the terms " can " and " canned fish or shellfish " shall be deemed to include any hermetically sealed glass bottle, package or container, and any fish or shellfish processed or preserved in the usual way packed in such can, bottle, package or container ; also lobster meat cooked for sale, fresh or frozen, and packed in a can, bottle, package, or other container, but not preserved to keep, as is the case with lobster meat processed or preserved in the usual way. Cans of fish or shellfish imported into Canada are required to be correctly labelled so as to indicate in a plain and conspicuous manner the kind and quality, minimum weight of the contents, the place of origin, and name and address of the person, firm or corporation by whom they are packed or by whom they are imported.

Gold Clauses.—The Gold Clauses Act of 1937 is repealed by C. 45. Under the new Act the term " Gold clause obligation " means any obligation heretofore or hereafter incurred (including any such obligation which has, at any time heretofore or hereafter, matured or been repudiated) which purports to give to the creditor a right to require payment in gold

or in gold coin, or in an amount of money measured thereby, and includes any such obligation of the Government of Canada or of any province. In an action in Canada upon a gold clause obligation (1) tender in currency which is legal tender in the country in the money of which the obligation is or becomes payable, of the nominal or face amount of the obligation, or (2) tender in currency which is legal tender where the tender is made of an amount which is equivalent to the nominal or face amount of the obligation, will be a legal tender if the tender was made at the place at which the obligation was payable by the terms of the contract whether the tender was made before or after the commencement of the action ; and if the debtor has made payment in accordance with the tender, he will be entitled to a discharge of the obligation or of any liability for damages by reason of repudiation of liability upon the obligation. There is a similar provision with regard to an action in Canada upon a foreign judgment rendered in an action commenced after the date of the commencement of this Act, where the tender is made before the foreign action was commenced, the debtor being entitled to a discharge of the judgment if he shall have made payment in accordance with the tender. Any payment in respect of a gold clause obligation made before the commencement of the new Act which, if made thereafter, would entitle the debtor to a discharge, will be deemed to have discharged the obligation. A provision in the obligation for the payment in gold or in gold coin is declared as being contrary to public policy and it will have effect as if the obligation contained a covenant to pay its nominal or face amount in currency which is legal tender in the country in the money of which the obligation is payable, or its equivalent in Canadian currency. Gold clause obligations secured on or enforceable against any work or undertaking subject to the legislative authority of the Parliament of Canada will be construed as if it contained no reference to gold or gold coin and as if the only amount stipulated to be paid thereunder were its nominal or face amount in currency which is legal tender in the country in the money of which the obligation is payable or its equivalent in Canadian currency. The Exchequer Court of Canada is prohibited from pronouncing or enforcing any judgment, etc., in which the amount of the liability is fixed for any purpose whatsoever at more than the nominal or face value of the obligation in currency which is legal tender in the country in the money of which the obligation is payable or its equivalent in Canadian currency.

Grain Trade.—C. 31 provides for the supervision and regulation of trading in grain futures by the Board of Grain Commissioners for Canada. Among the wide powers conferred upon the Board, is the power to fix the minimum margin which shall be deposited in connexion with trading in grain futures, and the maximum amount of any kind of grain which any person may in a single session of the Winnipeg Grain Exchange or any other period of time commit himself by means of grain futures to accept or deliver or which any person may at any time be under commitment by means of grain futures to accept or deliver ; and also the power to suspend from trading privileges any member of the Winnipeg Grain Exchange if in the opinion of the Board the member has been guilty of a breach of the Act or any regulation or order made thereunder. This power is to be exercised whenever the Board is of opinion that transactions in grain futures are causing or threatening to cause sudden or undue fluctuations in the price of any kind of grain.

C. 34 provides for the co-operative marketing of wheat, along the lines

of The Agricultural Products Co-operative Marketing Act, 1939, *supra*.

The Canada Grain Act, 1930, has been amended in many respects. The principal amendments relate to the establishment of grades of Western grain in accordance with particulars set out in the schedules to the Act. Other amendments relate to the definition of "dockage," "foreign material," "mill elevator," "screenings," "waggon," "overage," and the term "semi-public"; also to the membership and jurisdiction of the Committee on Western Grain Standards and the Committee on Eastern Grain Standards, the inspection and grading of Western grain on receipt and discharge thereof, and the cleaning of grain received into licensed terminal elevators.

The Canadian Wheat Board Act, 1935, has been amended by c. 39 with regard to the powers of the Board respecting the marketing of wheat, and the payment to producers delivering wheat; and the Act is to apply *mutatis mutandis* to wheat produced in the Eastern division. The Act came into force on August 1, 1939.

Insurance.—The Canadian and British Insurance Companies Act, 1932, is amended, by recognizing as assets which may be vested in trust by any British company for the purposes of the Act railway equipment trust obligations or certificates and the bonds, debentures or other evidences of indebtedness of certain public bodies in Great Britain, Northern Ireland and the Dominions, including those having the administration or regulation of any port or harbour or public utilities. Similar amendments were made to the Foreign Insurance Companies Act, 1932.

International Boundary Waters.—C. 33 approves and provides for the carrying into effect of the provisions of the Convention between Canada and the United States of America signed in Ottawa on September 15, 1938, respecting emergency regulation of the level of Rainy Lake and of the level of other boundary waters in the Rainy Lake watershed. The Act is to come into force on proclamation.

Military.—An Act respecting Official Secrets has been passed. (*See* c. 49.) A prosecution for an offence under the Act is not to be instituted except with the consent of the Attorney-General. The Official Secrets Act, 1911, 1 & 2 Geo. V., c. 28 (Imperial), in so far as it is part of the law of Canada, and ss. 85 and 86 of the Criminal Code, relating to illegally obtaining or communicating information respecting military, naval or other public matters, have been repealed.

Railways.—C. 2 appoints George A. Touche & Co., of Toronto and Montreal, Chartered Accountants, as independent auditors for the year 1939, to make a continuous audit of the accounts of National Railways.

Relief.—C. 26 has been passed to continue assistance in the alleviation of unemployment and agricultural distress, by supporting and supplementing the measures of the provinces and other bodies to establish unemployed persons in gainful occupations, to train other unemployed persons for similar establishment and to assist those in need and thereby to lessen provincial and municipal burdens consequent upon unemployment and agricultural distress.

The Prairie Farm Rehabilitation Act is amended by empowering the Minister of Agriculture to enter into agreements with any of the provinces of Manitoba, Saskatchewan or Alberta, or with any city, town or other municipality within any of these provinces, or with any person, firm or corporation, with respect to the development, promotion, construction, etc, of any project or scheme undertaken by virtue of the Act or which

may be deemed necessary or desirable for the conservation of water. For the purposes of the Act the Minister may acquire or dispose of any lands or premises which may be required for or included in any project or scheme, and purchase or rent the necessary machinery or equipment.

Trade Agreements.—The trade agreement entered into between Canada and the United States of America on November 17, 1938, is approved by c. 29, and the Canada-United States of America Trade Agreement Act, 1936, is repealed. C. 29 came into force by proclamation as of June 17, 1939.

Transportation.—C. 12 has been passed to give effect to the convention for the unification of certain rules relating to International Carriage by Air which was signed at Warsaw on October 12, 1929, to make provision for applying the rules contained in the Convention (subject to exceptions, adaptations and modifications) to carriage by Air which is not international carriage, and for purposes connected therewith. The Act is to come into force on a date to be fixed by proclamation.

Youth Training.—Under c. 35 provision is made for the training of young people to fit them for gainful employment. The persons intended to be benefited are as follows: Males and females between sixteen and thirty years of age who are not gainfully employed and whose families are not in a position to pay the full cost of their training, and who are (1) registered for employment with the Employment Service of Canada, or (2) certified as eligible by the Clerk of the individual's home municipality or by an appropriate provincial authority, or (3) deserving transients certified as eligible by an appropriate provincial authority. The Act will not apply to any province unless and until the government of the province has, by order in council, signified its agreement to co-operate with the Minister of Labour in carrying the provisions of the Act into effect.

2. ALBERTA.

There was a second session in the year 1938 which began on November 15 and closed on November 22, during which eight Acts received the Royal Assent.

Oil and Gas Conservation.—No. 1 re-enacted with amendments the Act passed earlier in the year which created a Board to effect the conservation of oil and gas resources by the control and regulation of the production of both, " whether by restriction or prohibition and whether generally or with respect to any specified area or any specified well or wells or by repressuring of any oil field, gas field, or oil gas field, and incidentally thereto providing for any compulsory purchase of any well or wells."

Treasury.—Branches of the Treasury are established throughout the province by No. 3 by which the Provincial Treasurer appears to undertake functions normally belonging to the banking business. The Act anticipates that there may be " earnings and profits " of the branches paid into General Revenue of the province.

Metis Population.—" Metis " is defined by No. 6 to mean a person of mixed white and Indian blood but does not include either an Indian or a non-treaty Indian as defined in the Indian Act. A member of the Executive Council is to be charged with the administration of this Act and this Minister is authorized to co-operate with any association formed " for the purpose of bettering the general welfare of the metis population of the province."

The session of 1939 began on February 9 and closed on April 3. Ninety-seven Public General Acts were passed and five Private Acts.

Natural Products.—The Acts of 1934 and 1935 dealing with the marketing of natural products were consolidated with amendments in No. 3. The definition of " natural products " is a very wide one and includes not merely agricultural products, but also mineral products. The administration is entrusted to a Provincial Marketing Board consisting of five members appointed by the Lieut-Governor, who receive remuneration for their services.

Petroleum.—Petroleum, which includes petroleum products and natural gas, is placed under Government supervision by No. 4 in the Pipe Line Regulation Act. The law relating to the taxation of the pipe line is amended by No. 18. No. 6 provides for the fixing of prices of petroleum products which means " any mineral oil and relative hydrocarbon, and any liquid product obtained whether by condensation or absorption, distillation or any other process from petroleum natural gas, casing head or natural gasoline, benzole, benzine, naptha coal, coal tar, oil shales, kerosine gas oil, and any combination thereof."

Government Purchases.—The whole of the purchases required by Government departments are centralized by No. 7 in a Government Purchasing Agency which is to work in co-operation with the Marketing Board. (*See supra.*)

Insurance.—The Government of the province is authorized by No. 8 to engage in the business of insurance.

Lands.—The law dealing with Government lands is consolidated in chapter 10.

Teachers' Pensions.—By No. 21 a fund is established to provide pensions for teachers upon their retirement and in addition to the amounts contributed by teachers the Department of Education is authorized to receive gifts and legacies.

University of Alberta Hospital.—The Act of 1929 is amended by No. 37 which contains a novel provision in reference to the maintenance of the hospital attached to the University. If the governors of the University cannot settle with the city of Strathcona and the city of Edmonton what is a suitable amount for each of them to pay " as is fair and just for the time being having regard to the varying economic and industrial conditions to all effects and circumstances arising out of all transactions between them, then the matter is to be referred to arbitration and failing the appointment of an arbitrator to a judge of Supreme Court in chambers."

Public Welfare.—The legislation dealing with assistance to destitute and unemployed people is amended and re-enacted by No. 40, containing generally the powers and duties of the Bureau of Public Welfare.

Mines.—A long consolidating ordinance of 88 sections contains the whole of the law relating to the administration of mines and the duties of the department entrusted with their supervision.

Cancer.—Provision is made by chapter 67 for the investigation of remedies for cancer. The Minister of Health is authorized to constitute a commission " to make enquiries and investigations with regard to any substance or method of treatment which is believed or likely to be, or is advertised or held out to be, or used as a remedy for cancer, and to determine the efficiency or otherwise of such substance or method of treatment as a remedy."

Maternity.—The Lieut.-Governor is authorized by c. 69 to make a grant of not more than 15 dollars to any expectant mother who is in poor financial circumstances whether in receipt of relief or not and he may also appoint a nurse for any area in which existing nursing facilities are inadequate.

Auctions.—Auctions are the subject of an amending Act No. 77, which also re-enacts the English legislation and makes provision for the registration of auctioneers.

The Legal Profession.—By an amendment (c. 91) of the Legal Profession Act an indemnity fund is established in order to meet any loss suffered by clients through misappropriation or conversion by any member of the Law Society.

Chiropody.—No. 92 provides for the registration of chiropodists and No. 93 imposes penalties upon any unregistered person who holds himself out as or professes to be a chiropractor.

3. BRITISH COLUMBIA.

Sixty-five Public and three Private Acts received assent on November 30, 1939. Among the former are Acts relating to local affairs which in the United Kingdom are classed as Local and Personal. From the Public Acts may be noted the following points.

Allied Forces.—No. 3 continues in force every free miner's certificate held by members of the Allied Forces.

Commorientes.—Where two or more persons die in circumstances rendering it uncertain which of them survived the other, No. 6 provides that for all purposes affecting title to property, death shall have occurred in the order of seniority, and accordingly the younger shall be deemed to have survived the older.

Elections.—The whole of the law relating to elections of Members of the Legislative Assembly is contained in Chapter 16. By a convenient device amendments are shown by the word (*altered*) at the end of a section, and (*new*) at the end of a section denotes attention to additional provisions. Among the latter it is enacted :—

" No person shall on the day of any election distribute any printed circulars or cards or carry on any political activities whatsoever within five hundred feet of any polling place."

Wages.—Municipal corporations are required by c. 62 to pay their employees engaged in industrial undertakings at least as often as semi-monthly. In mines the employees must be paid at least as often as fortnightly and on a Saturday. This does not apply to employees on a contract when the yearly salary is two thousand dollars or more.

Water.—C. 63 consolidates the law respecting the diversion and use of water. In this Act the word (*redrawn*) is used instead of the (*altered*) in the Elections Act. (*supra.*)

4. MANITOBA.

[*Contributed by* Wilson E. McLean, Esq., K.C., *Legislative Counsel.*]

1938.

At the 1937-38 Session of the Legislature 80 Bills were passed, of which 48 dealt with public general matters, 27 with general or local municipal matters, and 5 with private matters.

Food.—The Food Products Minimum Loss Act (c. 16) was enacted prohibiting loss leaders, i.e., selling at less than five per cent. over cost is made unlawful. This is modelled on the British Columbia legislation.

Grain.—The Grain Dealers' License Act (c. 19) provides for the licensing of elevators, track buyers, and street buyers, and is primarily for the purpose of raising revenue.

Elevators.—The Manitoba Pool Elevators Act (c. 24) is concerned with the agreements between the Manitoba Pool Elevators, Limited, and various local co-operatives. In essence it provides for operation of all the local elevators as a line.

Waters.—The purpose of the Dominion-Provincial Agreement Act (c. 27) is to make it quite clear that the province obtained the interest and rights in waters and water powers by the transfer of natural resources in 1930.

Trade Schools.—The Trade Schools Regulation Act (c. 42) provides for the regulation and control of trade schools operating within the province and salesmen, etc., selling correspondence courses for outside schools.

Change of Name.—C. 5 requires any person in the province of Manitoba changing his name to follow the procedure laid down therein. The Act is administered by the Provincial Secretary and supplants the present practice of registration in the office of the Prothonotary, etc.

Fair Wage.—The Fair Wage Act was amended by c. 13 by the addition of Part II thereto. This provides for combinations of employees and employers in fixing wages and prices in certain industries in much the same manner as is done in Quebec, Ontario, Saskatchewan and Alberta. It is, however, restricted to barbering, hairdressing, printing, engraving and dry-cleaning. Before the Act will operate in that industry, evidence must be submitted that the majority in the industry are in favour of being brought under the Act. Upon the Lieutenant-Governor-in-Council bringing an industry under the Act, a joint committee of employers and employees is set up for the purpose of fixing standards of fair wages. When these have been established and approved they are binding in the same manner as minimum and fair wage schedules.

Stock.—Section 7A was added by c. 1 to the Animal Husbandry Act, which permits a municipal council to take complete control of herd by-laws in the municipality without following the elaborate procedure laid down in section 7.

Children.—Two amendments were effected by c. 6 to the Child Welfare Act. In the first place, provision is made for taking a maintenance order against a municipality in the case of a neglected child who comes within the mothers' allowance part. This, however, is held in abeyance until the child goes off allowance. The second was with respect to the illegitimacy part. At the present time the payment of moneys on affiliation orders is through the Director. The amendment will permit the order to be made either in favour of the Director or a society.

Companies.—The Companies Act was amended by c. 7 to provide for inspection of trust companies and certain loan companies incorporated by the Provincial Legislature. It provides that this may be done by agreement between the province and the Dominion.

Coroners.—An amendment (c. 9) was enacted to the Coroners Act to make it clear that the coroner might make an order for a *post-mortem* for the purpose of determining whether or not he would hold an inquest.

Crown Lands.—An amendment (c. 12) was made to the Crown Lands Act to provide a machinery for dealing with rural rehabilitation lands.

Elections.—An amendment (c. 14) was made to the Manitoba Election Act providing for an appeal in the case of a recount in single-member constituencies. This goes from the county court judge to the Court of Appeal.

Forests.—Minor amendments were made by c. 17 to the Forest Act with respect to the conditions upon which timber berths are granted, and also the seizure of timber illegally cut.

Game.—Two amendments were made by c. 18 to the Game and Fisheries Act. Section 70 was amended, restricting the Indians' right of hunting in closed season to that for food only. Trappers were prohibited from having snares or material for making snares in and about their trap lines.

Public Health.—An amendment was made by c. 20 to the Health and Public Welfare Act to give the same remedies to the Crown as those possessed by municipalities for the recovery of relief, hospital, etc., debts. These are suit, lien, etc.

Amendments were effected to the Public Health Act by c. 32 to permit health regulations with regard to cemeteries.

Liquor Control.—The Government Liquor Control Act, 1928, was amended by c. 23 to provide for a limited general permit for visitors, etc., and also to provide a machinery for the control of clubs.

Milk.—Slight amendments were made by c. 25 to the Milk Control Act, 1937, to cover the matter of quorum, and also to permit of the distribution of a patronage dividend by a co-operative without contravening the Act.

Mines.—The amendments in c. 26 to the Mines Act were primarily for correction purposes. They also are designed to cover claims staked before the coming into force of the Act, and cover temporary vacancies in the Mining Board.

Noxious Weeds.—A provision has been inserted by c. 28 in the Noxious Weeds Act to prohibit the movement of hay, etc., containing leafy spurge plants.

Taxation.—The tax on banks was increased by c. 38 by a surcharge of 40 per cent. by amendment to the Corporations Taxation Act.

Income Tax.—A number of amendments were enacted by c. 39 to the Income Taxation Act. These were mainly designed to bring the Manitoba law closer into line with the Dominion law. The main amendments were:—(1) A reduction of the 2 per cent. tax to 1 per cent.; (2) The taxation of corporations on a sliding scale ; (3) The exemption of dividends in the case of Manitoba companies ; and (4) A greater exemption under Part II to widows and widowers.

Taxicabs.—The Taxicab Act was amended by c. 41 to provide for the regulation under the Taxicab Board of drive-yourself operators and vehicles.

Universities.—Amendments by c. 45 to the University Act provide for the taxation by a rural municipality of University lands not used for University purposes.

Assignments.—An amendment (c. 2) was made to the Assignments Act to provide for the re-registration in the Land Titles Office of an assignment every six years. The purpose is to get rid of numerous

assignments which are cluttering up the general register in the Land Titles Offices.

Surrogate Courts.—There were two important amendments by c. 11 in the Surrogate Courts Act. In the first place, authority was given to the Surrogate Court to dispense with sureties in certain cases. In the second place, the court was empowered to make an order of disposal of an estate of personal property not exceeding 300 dollars without the necessity of the formal grant. This corresponds to the power possessed by coroners.

Education.—An important amendment by c. 13 was made to the Education Department Act with respect to disputes between teachers and school trustees. The old conception of the board of reference is done away with. If the Minister thinks the matter is one for conciliation, then he refers the dispute to a conciliation board. If the Minister thinks the matter one for arbitration, he remits the parties to compulsory arbitration under The Arbitration Act.

Highways.—The amending Highway Traffic Act (c. 21) was an Act of some 50 sections. The important changes are as follows :—

1. It is provided that where a C.T. or P.S.V. certificate or permit is cancelled this also carries with it the cancellation of the registration. 2. The matter of weight was dealt with. 3. Also the matter of fees. 4. Section 78c was added providing for suspension of licence, etc., of a person convicted of an offence under the Criminal Code. 5. Impounding of foreign motor cars involved in accidents is provided for. This is for the purpose of civil actions. 6. The Board was given a wider power of regulating motor carriers.

Judgments.—The explanatory note to c. 22 amending the Judgments Act was as follows :—

" The decision of the Manitoba Court of Appeal in *University of Manitoba* v. *Rural Municipality of Portage la Prairie* (1937) 1 W.W.R. 583, contains observations with respect to the effect of a registered certificate of judgment upon the interest of an unpaid vendor in land. In the result it would appear that a registered certificate of judgment attaches the interest of an unpaid vendor in land in respect of which he remains the holder of the legal title. The amendment is to prevent such certificate adversely affecting the rights of a purchaser under the agreement for sale."

It was thought that the *Bank of Montreal* v. *Condon*, 11 M.R., 366, laid down the law differently for Manitoba. The amendment arose out of an article by a member of the Manitoba Bar, Mr. Patterson, in 9 Manitoba Bar News, 420, where the cases are discussed.

In *Miller* v. *Howard* (1914) 7 W.W.R. 627, at page 631, the Privy Council said :—

" It is sometimes said that under a contract for the sale of an interest in land the vendor becomes a trustee for the purchaser and the interest contracted to be sold subject to a lien for the purchase money ; but, however useful such a statement may be as illustrating a general principle of equity, it is only true if and so far as a court of equity would under all the circumstances of the case grant specific performance of the contract."

It would therefore appear that the weight of authority is that a purchaser under an agreement for sale has not a legal or equitable interest in land, with the result that if a certificate of judgment is registered

against the vendor, that certificate has priority of the so-called interest of the purchaser. The amending Act changes the law in this province.

Property.—The purpose of the amendments by c. 31 to the Law of Property Act was to extend section 25 (which provided a summary method of settling requisitions, objections or compensations between vendors and purchasers), to give jurisdiction to a King's Bench Judge or a local Judge to declare an agreement for sale cancelled. In other words, this, in certain cases, will obviate the necessity of an action to get rid of an agreement for sale. The need for this was rendered obvious by the amendment to the Judgments Act.

Public Schools.—The Public Schools Act was amended by c. 33. S. 2 deals with the question of accidents. The new sections added to the Act by that section, as amended in Committee, now do little more than state the ordinary common law liability. It may, however, be that s. 43 (2) does impose some limitation in that where a claim is based upon defective apparatus, knowledge must be shown. S. 19 of the amending Act prohibits trustees from purchasing certain books and supplies unless they are from an approved list. S. 24 provides that the Minister may require van insurance. S. 25 provides for a minimum salary for school teachers. Ss. 27 to 29 deal with executions against a school district. A new feature has been introduced in that if the claim is one sounding in tort, permission of the Minister must be obtained before the judgment can be enforced.

Wages.—The Wages Recovery Act was amended by c. 48 to provide for a certificate for registration in the county court where the justice dies, and the appeal provisions were made quite clear. There was some doubt as to whether any appeal was allowed except in exceptional circumstances.

Cemeteries.—C. 4, was a revision measure. It embodies parts of the old Cemeteries Incorporation Act, parts of the Church Lands Act, dealing with the rules as to the maintenance of cemeteries, interments, conveyances of cemetery lands, etc., and enacts certain prohibitions.

A new part was added by c. 8 to the Companies Act, dealing with the incorporation of cemetery companies. This is a revision measure and embodies a portion of the old Cemeteries Incorporation Act.

Statute Law Revision.—The Obsolete Enactments Repeal Act, 1938 (c. 29) was a revision measure. The first three operative sections thereof are designed to exclude from the statutes some hundred pages of now almost completely valueless railway legislation. S. 5 repealed the Initiative and Referendum Act, which has been declared *ultra vires*. S. 6 repealed the Agricultural and Community Districts Act, and s. 7 repealed the Foreign Exchange and Steamship Agencies Act. The Home for the Aged and Infirm Act was repealed by s. 8.

Pensions.—A revision measure (c. 30) combining the Old Age Pensions Act and the Pensions for the Blind Act was enacted. There is really very little change in principle with the exception of the clarification of the Crown's right of lien. The changes are designed to overcome the difficulties which were shown by the *Jacobs case* (1937) 3 W.W.R. 657, where it was held that if the old age pensioner succeeded to property in his lifetime, the lien was ineffectual.

Local Government.—S. 173 (1) (*e*) of the Assessment Act dealing with redemption from the District Registrar, has been amended by c. 49 to make it quite clear that the District Registrar may tax the costs of obtaining a certificate from the Debt Adjustment Commissioner.

Also, an amendment (c. 50) was made to s. 199 of the same Act, which deals with the rights to assignment of tax sales certificates. Sub-s. (2) gives right to require an assignment of a tax sale certificate to any person having an interest in the lands affected by the certificate. A new sub-section as (6) has been added to provide for a summary application to the Court of King's Bench respecting assignment of tax sales certificates. This permits the judge to determine the rights upon notice in a summary manner without the necessity for an action.

Amendments have been made by c. 52 to the Municipal Act as follows:—

1. Authorizing the clerk to give a certificate to vote to an assessed owner of land if his name has been inadvertently omitted from the electors' roll or the list of electors (s. 101);

2. S. 115 of the Act dealing with the form of declaration of a candidate has been amended. It also provides for a certificate from the Treasurer that the candidate, according to records of the municipality, is qualified as to property and is not disqualified because of indebtedness to the municipality.

3. S. 299 (*h*) has been amended to provide that a candidate who has consolidated his taxes and is not in arrears is not disqualified;

4. S. 302 of the Act has been amended to make it clear that a candidate for office must be the owner of the land and rated as owner to the required value;

5. The provisions authorizing street-lighting contracts in suburban municipalities have been extended as to amount;

6. S. 434 has been amended to permit municipal corporations to enter into agreements with one another to assume liabilities for relief, etc., of residents thereof;

7. It is specifically provided that where municipalities have been disorganized the control is in the Minister of Education rather than in the Municipal Commissioner;

8. S. 614, dealing with reserve funds, has been redrafted;

9. S. 947, dealing with the duties of a treasurer on receipt of precept of an execution, has been redrafted to bring the same into conformity with the Assessment Act.

1939.

At the 1939 Session of the Legislature, 122 Bills were passed, 83 of which dealt with public general matters, 33 with general or local municipal matters, and 6 with private matters.

Cattle.—The Horned Cattle Purchases Act (c. 30) requires cattle dealers who purchase horned cattle to pay the same price therefor as if the cattle were dehorned, but out of the price the sum of $1.00 per head is deducted and paid to the Minister of Agriculture to create a fund for the improvement of the cattle industry in the province.

Civil Service.—C. 65 establishes a fund to receive contributions from the Government and civil servants which will enable pensions to be paid to civil servants when they reach the retirement age of 65.

Companies.—By c. 11 and c. 12 the Companies Act is amended by adding a new Part V*A* dealing with the societies for the prevention of cruelty to animals. The earlier Act dealing with that subject is repealed. The provisions of the Companies Act relating to the filing of a prospectus are extended to statements in lieu of prospectus.

Education.—The Education Department Act is amended by c. 16, which authorizes the setting up of an account for the purpose of printing, publishing and selling textbooks and school equipment.

Evidence.—By c 19 three new sections are added to the Evidence Act, which deal with the admissibility of documentary evidence. These amendments are based on the English Evidence Act of 1938.

Fraudulent Conveyances.—C. 24 states in simplified language, based on a similar Ontario statute, the substance of 13 Eliz., c. 5.

Game and Fisheries.—C. 25 prohibits the use of night lights for trapping big game and the hunting of game on horseback. The hunting of game birds from a motor vehicle or aircraft is also prohibited.

Gaols.—The Gaols Act, c. 26, is a revision measure passed in anticipation of the general revision of the statutes of the province to be published in 1940. New provisions in the Act enable the Lieutenant-Governor-in-Council to direct a prisoner to be employed at hard labour beyond the gaol limits and also enable the Attorney-General to direct the removal of a prisoner to a hospital for medical treatment.

Highways.—The Highway Traffic Act is amended in several respects by cc. 28 and 29. The towing of vehicles on highways is prohibited unless an adequate towing device is used. Vehicles are prohibited from carrying more than six cords of cordwood on a highway. A new section imposes liability on the operator of an overloaded vehicle for any damage thereby caused to the highway.

A maximum speed limit in the daytime of 50 miles per hour is imposed.

Municipalities are empowered to restrict the gross weight of vehicles driven over bridges. Vehicles are required to stop before entering on a provincial trunk highway. A new section puts the onus on the owner or driver of a vehicle to prove that damage resulting from the operation of the vehicle on a highway did not arise by reason of the contravention of the Act.

Horses.—C. 18 empowers the Lieutenant-Governor-in-Council to approve the use of certain recommended vaccines for the prevention of encephalomyelitis in horses. C. 80 authorizes the Minister of Agriculture to organize a campaign to combat the disease and to arrange for the purchase and sale of vaccine for that purpose.

Insurance.—The Insurance Act is amended by c. 32. A new section is added enabling an agreement to be made with the Dominion Government whereby the Dominion Superintendent of Insurance will perform certain duties imposed under the provincial Act. It is also provided that a contract may be renewed by the delivery of a renewal receipt.

Part X dealing with hail insurance has been completely revised to make it uniform with the Saskatchewan provisions.

It is also provided that where an amalgamation between two companies is approved by the Lieutenant-Governor-in-Council the insured shall have a direct cause of action against the insurer.

Interpretation.—The Interpretation Act (c. 34) is a revision measure, some of the provisions of which are new. Among these is a provision respecting the effect of interpretation clauses in an Act or regulations, the coming into force of provisions of statutes, the effect of marginal notes and headings, the interpretation of words and phrases used in regulations, the implied powers of the Minister and officers and the effect of repeal of statutes. This Act is based in part on the uniform

interpretation sections adopted by the Conference of Commissioners on Uniformity of Legislation in Canada at its 1938 meeting.

Land.—C. 13 adds a new Part to the King's Bench Act. Under the new Part a Land Court Division of the court is established to be presided over by a special judge with exclusive jurisdiction over securities on farm lands. The jurisdiction is extended to permit postponement of debts, payment by delivery of crops, imposition of terms and conditions of payment, supervision, etc. The Act is to come into force on proclamation.

C. 36, The Land Rehabilitation Act, enables municipalities to act under the provisions of the Prairie Farm Rehabilitation Act (Dominion) for the purpose of rehabilitating any drought and soil drifting area within the municipality and to develop systems of farm practice, etc., which will afford greater economic security. Municipalities are also empowered to regulate and control tillage practice liable to cause rapid soil deterioration by wind erosion.

Legislative Assembly.—By c. 37 a new section is added to the Legislative Assembly Act respecting the sessional allowance to the leader of the Opposition. In cases where the Opposition comprises more than one group, the allowance granted to the leader of each group is determined by the proportion the number of members in his group bears to the total number of members in the Opposition.

Legislative Library.—C. 38 is a revision measure containing a new Part to come into force on proclamation setting up a Public Records and Archives Branch.

Limitation of Actions.—C. 40 amends the Act by providing that an action against a hospital must be brought within one year after the cause of action arose.

Mines.—By c. 43 a new section is added to the Mines Act requiring a plan of each working mine to be filed annually.

Mortgages.—By c. 44 a new section is added to the Mortgage Act, providing that the registration as owner of a mortgagee or encumbrancer under foreclosure proceedings, shall operate to extinguish all his other rights under the contract.

Municipal Legislation.—The Municipal Improvements Assistance Act, 1939 (Manitoba) is enacted for the purpose of enabling municipalities in Manitoba to take advantage of the provisions of the Municipal Improvements Assistance Act, 1938 (Canada).

Cc. 84 and 85 deal with municipal assessment. Inspection of land may be dispensed with if the assessor has made an inspection the preceding year. An insurance company is required within 48 hours after receiving notice of loss to notify the municipality in which the damaged property is situate and is prohibited from paying out the proceeds under the policy until all outstanding taxes against the property have been paid.

A municipality is given the right to enter into unoccupied property which it has purchased at tax sale for the purpose of protecting it against damage and to charge, by way of taxes against the property, any expense to which it is put for that purpose.

A municipality is enabled to dispense with the statute labour levy and to levy a special rate for expenditures on highways in lieu thereof.

Cc. 87, 90 and 91 include general amendments to the Municipal Act. A municipality is empowered to become a member or shareholder of a co-operative association whose objects include the buying and

selling of petroleum products and is also empowered to carry on the business of buying and selling gasoline and petroleum products. A Municipality is also given the power on petition to require compulsory treatment of livestock for the prevention of disease.

Natural Products Marketing.—C. 46 is a new Act based on the British Columbia statute of 1934 which contemplates the setting up of marketing boards for the control and regulation within the province of the transportation, packing, storage and marketing of natural products.

Partition.—C. 50 repeals the Partition Act and incorporates in the Law of Property Act a new revised section dealing with partition and sale.

Public Schools.—C. 50 requires the officers of a school district to furnish security for the performance of their duties and imposes a penalty on parents who neglect to have their children properly examined or treated in cases where the children have been excluded from school because of disease or vermin.

Seed Warehouses.—The Seed Purchasing and Cleaning Warehouses Act (c. 59) requires any person carrying on the business of a seed warehouse to be licensed and provides for the manner of cleaning and handling seed and the amount of insurance to be carried.

Sheriffs.—C. 60 is a revision of the Sheriffs Act, containing some new provisions dealing with remuneration and power to appoint constables to attend at court.

Torts.—The Tortfeasors and Contributory Negligence Act (c. 75) provides that judgment against one joint tortfeasor shall not be a bar to action against others, but the damages recoverable shall not in the aggregate exceed the amount awarded by the judgment first given. A tortfeasor may also recover contribution from any other tortfeasor liable in respect of the same damage, the amount so recoverable, if any, being the amount found by the court to be just and equitable.

The Act also authorizes the court in case of contributory negligence on the part of the plaintiff to apportion the damages between the parties in proportion to the degree of their negligence.

Other sections deal with the special cases arising where damage is suffered by a gratuitous passenger in a motor vehicle and where damage is caused to a married person as the result of the negligence of the other spouse.

5. NEW BRUNSWICK.

It is regretted that a review is not available.

6. NOVA SCOTIA.

[*Contributed by* H. F. Muggah, Esq.]

112 Acts were passed in the year, and included: 64 Public, 28 Local, and 20 Private.

Supervision of Municipal Affairs.—The Municipal Affairs (Supervision) Act (C. 3) provides for the amendment and consolidation of Acts relating to the supervision of municipal affairs. It authorizes the Governor-in-Council, if he deems it expedient, where an incorporated town or a municipality fails, or is about to fail, to pay its debentures, or other liabilities, or has failed to levy a rate, to levy or collect the amount necessary to meet its expenditures for the year. He is authorized to declare the office of mayor or warden and the offices of councillors of such

town or municipality to be vacant, and to appoint persons to be during pleasure or until the Governor-in-Council orders an election, mayor or warden and councillors respectively. While so holding office such mayor or warden, and councillors, shall have, in addition to the usual powers of the council, wide powers with respect to consolidation of liabilities, issue of new debentures, and generally to rearrange and reorganize the financial structure of the town or municipality.

Agriculture.—The Agriculture and Marketing Act (c. 4) amends and consolidates existing legislation respecting agriculture and marketing of agricultural products.

Trade Schools.—The object of the Trade Schools Regulations Act (c. 10) is to regulate and control the operation of Home Study Courses and Trade Schools, and to license operators of the same.

For the purposes of the Act "Trade" includes the construction, building, repair and operation of aeroplanes, steam engines, boilers, internal combustion engines and machinery of all kinds, building, construction, fabrication of iron and steel, aviation, mining, lumbering, dressmaking, millinery and any other occupation designated as a trade by the regulations. "Trade School" is defined as "any school or place or any course of study by correspondence or otherwise kept or operated by any person wherein or whereby any trade is taught or purported to be taught."

Official Salaries.—C. 12 enables the Governor-in-Council at any time to direct any Sheriff, Prothonotary, Clerk of the Crown, Clerk of the County Court, Registrar of Probate or Registrar of Deeds to pay all fees received by him to the Provincial Treasurer, and provides for payment to such official so directed of an annual salary out of provincial funds.

Coroners.—By c. 23 the Coroners Act was amended to provide that the coroner in cases in which, after examination and inquiry, he deems an inquest unnecessary, shall make a written report to the Attorney-General setting forth the results of such examination and inquiry. For such services the coroner shall be entitled to a fee to be paid by the Municipal Treasurer.

Jails.—C. 30 amends the Act "Of Court Houses, Jails and Lock-up Houses," by providing that the time during which a person, who has been sentenced to a term of imprisonment, is at large without lawful excuse, shall not be reckoned as part of his term of imprisonment. This applies only to imprisonment for violation of Provincial Statutes.

7. ONTARIO.

[*Contributed by* JOHN D. FALCONBRIDGE, ESQ., K.C.]

Of the 78 Acts passed 54 were Public and 24 Private.

Change of Names.—The Change of Name Act (c. 6) prescribes the procedure to be followed by a person wishing to change his name. An application is made, after advertisement and notice to the Attorney-General, to a County Court Judge, who may make an order approving the change, or may refuse the application if he thinks the change of name applied for might cause confusion or embarrassment due to similarity or resemblance to the name of another person or if the change of name is sought for any improper purpose. If any person has reason to believe that an order effecting a change of name has been obtained by fraud or

misrepresentation, or for an improper purpose, such person may apply to have the order annulled. Except in the case of a change of name by a woman on marriage or an infant on adoption, no person shall change or attempt to change his name except under the provisions of this Act.

Coroners.—By the Coroners Amendment Act (c. 9) important changes are made in the statute law relating to coroners and their powers. No inquest shall be held unless the Attorney-General, Crown Attorney or the Supervising Coroner of Ontario directs one or consents thereto, or unless the inquest is required by the provision of some statute, Dominion or Provincial. No inquest shall be held or continued touching a death in respect to which death any person has been charged with a criminal offence, except upon the direction of the Attorney-General. A coroner's jury shall be composed of five persons, instead of between seven and twelve, and a person who has acted as a juror at an inquest shall not act in a similar capacity within one year thereafter. The Attorney-General may direct a coroner to conduct an inquest even though the body has been destroyed or has been removed from Ontario and a coroner has not viewed it. This latter amendment was apparently enacted to overcome the decision in *re Sidley* [1938] O.R. 649, 4 D.L.R. 693.

Judicature.—By the Judicature Amendment Act (c. 23) the Attorney-General is empowered to bring an action in the Supreme Court for an injunction or mandamus restraining the publication of any newspaper, pamphlet, magazine, etc., containing any writing, article or picture tending to insult, revile or expose to hatred, contempt, ridicule His Majesty or any member of the Royal Family. The same Act, by Sec. 2, provides " when the Judge presiding at the hearing or trial of any cause or matter deems it to be in the interest of public decency and morals, he may order that the public shall be excluded from the Court."

Barristers and Solicitors.—The Law Society Amendment Act (c. 24) empowers the Benchers of the Law Society to make rules and regulations respecting the opening and keeping of bank accounts of barristers and solicitors for clients' monies, the keeping of proper accounts of the same, inquiries and investigations for the purpose of ascertaining whether the regulations of the Society are complied with, in what cases non-observance of the regulations shall amount to professional misconduct, and the payment to the Society by any barrister or solicitor of the cost of any audit or inspection, in the event that the regulations have not been complied with.

Mortgages.—The Mortgages Amendment Act (c. 28) gives the mortgagee the right to recover a personal judgment for the mortgage debt from the grantee of the equity of redemption where the mortgagor has transferred the equity under such circumstances that the grantee is by express covenant or otherwise obligated to indemnify the mortgagor with respect to the mortgage. The grantee shall cease to be liable to the mortgagee upon the registration of a transfer of the equity by the grantee unless prior to such registration, the mortgagee has commenced an action to enforce his claim against the grantee.

Limitations.—By the Limitations Amendment Act (c. 25), the time for commencing an action upon a covenant contained in a mortgage is within ten years after the cause of action arose or within ten years after the time the person liable on the covenant transferred his interest in the mortgaged lands, whichever is the later in point of time. An action by a mortgagee against the grantee of the equity of redemption (*see* supra

Mortgages) must be commenced within ten years after the cause of action arose. In an action upon a covenant contained in a mortgage made on or after July 1, 1939, acknowledgments or part payments made by a person other than the person liable on the covenant, shall not affect the person liable on the covenant.

SECOND SESSION—1939.

All the eleven Acts passed in the session were Public.

War Time Legislation.—At a short session of the Legislature held in September, legislation was enacted permitting an executor, administrator or trustee who is engaged in war service to delegate by power of attorney the execution of the Trust (the Execution of Trusts Act, c. 3) ; extending the term of license of, extending the time for the performance of the statutory work and the application for a patent, etc., by a miner who has enlisted or enrolled for active service (Mining Amendment Act (No. 2), c. 5) ; establishing a Provincial Committee " to aid in securing the conservation, utilization and organization of the resources of Ontario for the successful prosecution of the war " (Organization of Resources Act, c. 7) ; authorizing the Hydro-Electric Power Commission to regulate and control the supply and use of hydraulic, electrical, steam or other power in Ontario (the Power Control Act, c. 8) ; requiring a permit before a public meeting or procession can be held (the Public Meetings and Processions Act, c. 9) ; providing for the protection of public works, such as public buildings, railways, canals, highways, bridges, power stations, etc. (Public Works Protection Act, c. 10) ; amending the Wills Act to confer testamentary capacity upon soldiers, seamen and airmen notwithstanding that they are at the time of execution of the will under the age of twenty-one years (Statute Law Amendment Act, c. 11).

8. PRINCE EDWARD ISLAND.

During the session, which began on March 20, 1939, 51 Public Acts were passed and 18 Private Acts.

Civil Procedure.—Civil Procedure occupied a good deal of attention during the session. Affidavits were dealt with in c. 2, which provided for the appointment of commissioners and the procedure to be followed in taking them. The granting of bail and the conditions under which persons could be committed to prison for non-payment of debt are contained in c. 4. *Habeas Corpus* was the subject of c. 6, which also regulated the practice of writ of *certiorari*. The procedure in dealing with indigent debtors is contained in c. 11, which leaves a debtor with a minimum " of his necessary wearing apparel, the bed and bedding of such debtor and his family, one stove and cooking utensil, his trade and occupation and one cow, not exceeding in the aggregate of one hundred dollars."

Law of evidence is contained in c. 14, which deals with the competency of witnesses, affirmation and the production and proving of documents. It consolidates the law on the subject. Judgments and execution, including the powers of the sheriff in carrying it out, are contained in c. 24, which consolidates the legislation on the subject dating from the year 1786. C. 25 is a small amending measure of the Judicature Act, 1929, dealing with the rules relating to the docketing of actions and apologies in libel and slander suits. The whole law dealing with the

limitation of actions is contained in c. 30, which sets forth the various periods. An action for trespass or assault, including malicious prosecution, or for seduction, must be laid within two years after the cause of action; the period for forgery and misrepresentation is six years. An action on a judgment or order for the payment of money must be taken within ten years, and in other actions not specifically provided for, within six years.

Cemeteries.—No. 5 is an act to make provision for the safeguarding of monies bequeathed or paid to benevolent or other societies and institutions, or to owners or managers of cemeteries or burying grounds, or to cemetery companies, to invest so that the interest may be devoted to the perpetual maintenance and up-keep of graves and plots in their cemeteries. The Act, however, does not apply to monies received by, or deposited with, any church or society connected with the church. It requires that any such church or society may deposit with the Provincial Secretary any monies so held by it to be employed by him under the provisions of the Act.

Companies.—A series of Acts, dating from the year 1852, are revised and consolidated in No. 7, which now contains the whole law relating to Joint Stock Companies.

Deaf and Dumb.—The institution for the education of deaf and dumb people in Halifax receives financial assistance from the Province under the provisions of c. 9.

Dower.—The legislation on the subject of dower dates from the year 1790, and that together with three later Acts, is consolidated in c. 12.

Agriculture and Fisheries.—Assistance may be granted for the purposes of agricultural rehabilitation in the province by c. 17, and in particular it provides for the registration of young men who are potentially successful farmers but who cannot properly establish themselves in the agricultural industry without Government assistance.

Forest Fires.—C. 18 contains those details which are necessary to take precautions against the risk of fire arising from fires for cooking or obtaining necessary warmth.

Insolvency.—Provision is made against frauds of creditors by c. 19 in terms which are similar to those dealing with insolvent debtors in Great Britain.

Interpretation of Statutes.—The law on the subject of interpretation of statutes is now contained in c. 23, which repeals and amends four previous Acts dating from the year 1878.

Land Surveyors.—A board of examiners for the examination of candidates to the practice of land surveying is constituted by c. 27, which also appoints a person to act as inspector of surveyors' instruments and measures.

Landlord and Tenant.—Nine Acts dealing with the law of landlord and tenant are incorporated in a consolidating measure, c. 28, which includes substantially the provisions of the Model Act recommended by the Conference of Commissioners on Uniform Provincial Legislation.

Magistrates.—The appointment of magistrates and justices of the peace is the subject of c. 32, which consolidates eighteen previous Acts on the subject.

Married Women's Property.—Three Acts are consolidated and amended in c. 34 dealing with property of married women.

Probate.—The provisions of twenty-seven Acts on the subject of

Probate are incorporated in c. 41, which contains provisions relating to the constitution of the Probate Court and its procedure, as well as the law dealing with wills.

Government Departments.—Authority for the constitution of the various departments of state is now contained in c. 42, which incorporates the provisions of twenty-five previous Acts on the subject dating from the year 1833.

Real Property.—The conveyance and tenure of real property are dealt with in c. 44, which amends and revises the provisions of fifteen previous Acts on the subject.

Sheriffs.—The terms of the appointment of sheriffs and their duties are contained in c. 47, which is in substitution of previous legislation on the subject.

Obnoxious Weeds.—The perennial subject of the steps to be taken to deal with obnoxious weeds, which are defined to be "all ragwort, yarrow or wild tansy, orange hawkweed, wild mustard, black-eyed Susan and sow thistle," are contained in c. 51.

9. QUEBEC.

[*Contributed by the* HON. MR. JUSTICE FABRE SURVEYER.]

One hundred and one Public Acts were passed and sixty-eight Private. The Acts summarized below came into force April 28, 1939, except when stated otherwise.

Unemployment Insurance.—The preamble to c. 2 states that compulsory unemployed insurance is considered a valuable social and economic advantage, and the Act authorizes the Cabinet for this purpose to enter with the Federal Government into agreements, which are just and conform to Provincial interests and constitutional rights. All necessary expenditure is payable out of the Consolidated Revenue Fund.

Economic Reconstruction.—C. 3 creates a Board called the Economic Reconstruction Board for the purpose of carrying out the works undertaken to assist the unemployed and the administration of the funds intended for such works and for unemployment aid. The Board consists of the Provincial Treasurer, the Minister of Roads, the Minister of Public Works, and the Minister of Labour. It decides by a majority of votes, three members forming a quorum at the meetings. The powers and duties of the Board are designated: payments authorized by the Cabinet to relieve distress, provide employment and maintain peace, order, and good government must be certified by the Board; the Board is empowered to enter into agreements with the municipalities for unemployment relief, etc. In addition, the Act decrees that the Government may expend the amount necessary to aid the unemployed by means of public works, contributions toward public works or allowances to the unemployed; the Act was assented to March 30, 1939.

Youth Aid.—C. 5 amends the Youth Aid Act (Statutes of 1938, c. 5) by increasing the grant from one million to two million dollars for the assistance of youth. It came into force March 30, 1939.

Elections.—By c. 11, the Election Act (Statutes of 1936, 2nd session, c. 8) is amended in various ways: the voter is relieved from the obligation of producing an identification card on certain occasions; further provisions are enacted as to proceedings taking place in the interval between the issuance of the writ and the proclamation, and concerning emergency

replacement of returning-officers and poll-clerks. In addition, the immunity of all deputy returning-officers from arrest on polling day is declared, infringements of this provision being punishable by penalties and damages.

Salary of Prime Minister and Ministers with Portfolio.—C. 12 provides that the yearly salary of the Prime Minister is no longer reduced by $2,000 or that of a Minister with Portfolio by $1,000. This Act restores the salaries received prior to August 26, 1936, and is retroactive as from January 1, 1939. It came into force March 6, 1939.

Government Purchasing Service.—Under c. 14, a general purchasing service is created, called the Government Purchasing Service, under the management of a General Purchasing Director, who supervises and controls all purchases made by Governmental departments as well as all printing, bookbinding, etc. This service appertains to the Attorney-General, and the Act applies to any Governmental department if designated by the Cabinet with the exception of the Legislative Council or Assembly. It came into force March 30, 1939.

Attorney-General's Department.—C. 15, amending the Attorney-General's Department Act, empowers the Attorney-General only to conduct all legal proceedings for or against the Crown or any public department, under the designation of "The Attorney-General of the Province of Quebec representing His Majesty in the rights of the Province"; however, the Act does not apply to civil proceedings instituted for the Crown, and pending April 15, 1939, provided that their designation suffices to show that they were taken on behalf of the Crown.

Transportation and Communication Board.—For the purpose of maintaining an efficient control of transportation and communication companies, c. 16 creates a body called the Provincial Transportation and Communication Board, composed of five controllers, including the president and vice-president. The appointment and remuneration of the members of the Board are under the control of the Cabinet; any vacancy among the members does not dissolve the Board, whose chief office is in the City of Quebec. The Act was assented to April 28, 1939, but only came into force on the thirty-first day after its sanction, with the exception of a provision relating to the continuation of the Public Service Commission Act (Revised Statutes of 1925, c. 17) which came into force April 28, 1939.

Corporation Tax.—C. 19 repeals the Corporation Tax Act and amendments, and enacts anew in regard to the taxation of corporations. Banks, Companies, Trust Companies, Loan Companies, etc., are defined under the Act, and the exemptions of various companies and establishments from taxation declared. The Cabinet is authorized to alter or change any tax while the Treasurer is given power to carry out the provisions of the Act.

Succession Duties.—C. 20 provides that every claim and action for the reimbursement of succession duties paid to the province is prescribed by one year from the date of payment, pending cases being excepted.

Alcoholic Liquor.—Various provisions are enacted in regard to alcoholic liquor and sanctions provided for violation of the provisions by c. 22, which came into force March 30, 1939.

Provincial Electricity Board and the National Electricity Syndicate.—C. 23 decrees, concerning the power and jurisdiction of the Provincial Electricity Board, that the Board, except where the distributor is a

municipal corporation, has exclusive jurisdiction to order extensions of distribution lines, to receive petitions and decide contestations in regard to installations used in transmitting or distributing electricity on municipal by-roads, land, etc., and, in addition, to regulate any electrical construction unless the measure is for the protection or functioning of telephone lines, etc.; under the Act, any recourse in justice against the agent of the National Electricity Syndicate as such must be taken in accordance with the rules for a Petition of Right, saving the recourse of the Syndicate.

Vacant Property.—Under c. 28, when no claim has been made during a period of thirty years or more, by the person entitled, for deposits of money, securities or credits in specie or in securities held in credit institutions, etc., these deposits and credits are considered vacant property belonging to His Majesty in the rights of the Province ; this property falls under the control of the Minister of Lands and Forests and may be alienated or disposed of gratuitously, as reward, etc., by the Cabinet.

Farm Credit.—In order that agriculture remain the fundamental industry, c. 29, amending several Acts, increases the amount which the Farm Credit Bureau is authorized to lend to farmers to 35,000,000 dollars. The borrowing power of the Bureau is increased accordingly. The Act came into force February 9, 1939.

Federated Co-operative.—C. 41 authorizes the Cabinet to appoint a person to verify the operations of the Federated Co-operative. The preamble to the Act declares this to be a precautionary measure, for the Government has already advanced more than $1,000,000 to the society and has recently expended several hundred thousand dollars in purchasing a warehouse for its agricultural products.

Colonization.—By c. 49, the Cabinet may, on the requisite recommendations, enter into agreements with the Canadian Government to encourage colonization, agriculture and the conservation of forests, and may take all measures for the execution of these covenants. The expenditure for the carrying out of the Act is payable from the consolidated revenue fund.

Mines.—C. 51 makes various enactments with regard to mines, several of which came into force January 1, 1940. Among other provisions, it enacts that the holder of a development licence, or the owner of mining rights on private lands may exercise his rights and develop or work the mines therein with the consent of the owner of the land, or, compulsorily, on his refusal ; in the latter case, a plan of the land needed for the work may be made by a land surveyor. Under certain conditions, arbitrators are appointed to decide on the compensation based upon the inconvenience or loss arising from the fact that a third party is in possession or making use of the land for developing or mining purposes. The sanctions for the employment of women, girls or boys formerly in force against the owner of a mine are now in force against the operator of the mine. Prosecutions for the recovery of fines, etc., may be brought before a judge of sessions, a district magistrate or the inspector of the mining division having jurisdiction, and the Cabinet has discretionary powers to fix the duration and area of mining license, development licenses, etc., for the part known as " New Quebec " in regard to combustible natural gas, to salt, coal, and mineral oil or naphtha as well as to gold placers, notwithstanding any provision to the contrary.

Minerals.—To encourage the making of bi-products of iron ore, c. 52

enables the Cabinet to pay a certain premium, during a period of five years from January 1, 1940, to the miner or producer of metallic pyrites or natural iron ore from Provincial deposits. The Minister of Mines and Fisheries is empowered to carry out this Act.

Game.—C. 56 enacts provisions in regard to the transportation of moose, etc., by aeroplane. Sanctions are likewise provided. The Act came into force March 16, 1939.

Collective Labour Agreements.—By c. 61, the employee may claim from his employer the equivalent of one month's wages as damages when his dismissal has been caused by his refusal to accept a lower wage than the obligatory one, or through a complaint concerning an agreement, decree, etc., or on account of his being a member of an association; moreover, in any civil or penal action under the Act respecting Workmen's Wages, no evidence is permitted to establish that the action was brought following upon the complaint of an informer or to discover the identity of the latter. The Act came into force on March 30, 1939.

Municipal Bribery and Corruption.—Under c. 65, municipal councillors having an interest in municipal contracts or deriving any pecuniary remuneration therefrom are disqualified from holding office for the period of the existing mandate. Formerly, the disqualification endured for five years. But the action at present may only be instituted by an elector of the municipality concerned who possesses certain property qualifications.

Sports.—A Provincial Sports Council is created by c. 67, composed of five members appointed by the Cabinet to supervise all sport and to encourage amateur sport amd healthy and honest recreation through the intermediary of sporting associations. The Act repeals the Athletic Commission Act, and enables the Cabinet, on recommendation of the Council, to delcare that any Athletic Commission ceases to function from a given date.

Montreal University.—C. 69 creates a corporation, named the Montreal University Administrative Society, composed of seven designated members. It provides for meetings, by-laws, appointment of officers, filling of vacancies, the hiring and remuneration of specialists, etc. By the coming in force of the Act, all property belonging to Montreal University was transferred *pleno jure* to the Society, free of privileges and hypothecs and exempt from taxation except water supply services. The Society is empowered to complete the buildings under construction or to erect new buildings on the land on Maplewood Avenue in Montreal, to grant contracts and to expend an amount up to $2,000,000 for this purpose; in addition, provisions are enacted concerning the liability of Montreal University for previous contracts. The Society is authorized to acquire property by onerous title or by gift by way of subscription, remuneration, etc., notwithstanding any provision to the contrary in the Mortmain Act. Moreover, on approval of the Cabinet, it may sell or cede its property, and mortgage it to contract loans which the Cabinet may guarantee up to $5,000,000. The Government is also, under the Act, obliged to make an annual payment, during ten years, from April 28, 1939, to the Society of an amount between $400,000 and $500,000.

For the purposes of the Act, the Society is constituted the agent of the Province and must render a yearly account of its administration to the Cabinet. The existence of the Society terminates after ten years, unless the Cabinet, on the request of the authorities of Montreal University and of the Society, deem it necessary to extend it for a period of not more

than ten years ; and the Society during its last year must transfer all its property to Montreal University.

Juvenile Delinquents' Court of Montreal.—By c. 78, the Cabinet is enabled to appoint, during good behaviour and by a commission under the Great Seal, an additional judge of the Juvenile Delinquents' Court whose oath of office, salary, powers, jurisdiction, etc., are similar to those of the present judge of this Court.

Adoption.—C. 85, amending the Adoption Act and amendments, includes among the minors eligible for adoption legitimate children, fatherless or motherless, when adopted by the father and mother of the deceased consort on condition that the written consent of the surviving father or mother accompanies the petition for adoption.

Companies.—C. 86 transfers the powers and duties of the Provincial Secretary to the Attorney-General or Deputy Attorney-General in the matter of surrender of charter, amalgamation of companies, application for letters-patent, etc. The Act came into force March 30, 1939.

Insurance.—By c. 88, the practising notary is not included in the category of agents and may, notwithstanding the provisions of any general law or special act to the contrary, represent the insurer and transact any kind of insurance ; the Act also makes provisions relating to specified insurance upon the lives of children under ten years of age.

Instalment Sales.—The system of instalment sales raising social and economic problems, the Minister of Municipal Affairs, Trade and Commerce is authorized by c. 92 to enquire into these problems and to appoint the necessary officers to regulate this mode of trade. This act came into force March 30, 1939.

Moratorium.—C. 94 extends the scope of the Act respecting moratorium and safeguarding small properties by requiring the notice of thirty days in the case of the mortgagor or other debtor, and defines the word debtor as including the personal debtor, any other holder or the purchaser of an immovable who has received the notice. Until May 1, 1940, the notice is required before instituting an action against the vendor of an immovable with right of redemption as well as against the personal debtor ; moreover, the obligation of the debtor, who has availed himself of the provisions of the Moratorium Act to pay in whole or in part the principal of his debt, is delayed until that date. The Act provides that the interest need no longer be paid, tendered or deposited by the debtor personally, and makes regulations concerning a claim for the part of the yearly interest in excess of 5 per cent. It also declares that designated loan companies are not compelled to reimburse their certificates or bonds until May 1, 1941, and regulates the recovery of taxes in certain cases by third parties who have paid with subrogation.

Offences and Quasi-offences.—C. 95 provides in the matter of damages for bodily injuries that the victim will not be held responsible for any release, settlement or written declaration against his interest, when made by him within fifteen days after the date of the offence or quasi-offence.

Community of Property.—C. 95 also enables the married woman under the regime of community of property to exercise, with judicial authorization, alone or in her name, all actions to recover damages for bodily injuries on her husband's refusal or inability to act. Formerly, this procedure was open to her only in actions for libel, slander or alimentary pension.

Prothonotary.—By c. 96, various articles of the Code of Civil Procedure

are amended or replaced. It is declared that the prothonotary of the Superior Court may exercise all the powers conferred upon the court or judge thereof. Under certain conditions, the prothonotary may exercise such powers in the case of voluntary licitation or partition of property in which persons suffering legal incapacity or absentees have an undivided interest with majors, subject to revision by a judge.

Seizure of Salaries.—C. 96 provides for the proportional exemption of seizable salaries and wages. There must be left to the debtor in every case, at least $6 a week if he is unmarried or a widower without children, and $12 a week if he is married or a widower with one or more children of whom he is the actual support.

10. SASKATCHEWAN.

[*Contributed by* J. P. Runciman, Esq., *Legislative Counsel.*]

Ninety-eight public Acts were passed and four private.

Costs in Crown Suits.—(No. 20.) This new Act provides that, in any action or other civil proceeding instituted before any court in Saskatchewan by His Majesty or by the Attorney-General or any person on behalf of His Majesty, or in any other action or civil proceeding to which His Majesty or the Attorney-General or any person on behalf of His Majesty is a party, the costs of, and incidental to, the action or proceeding shall be in the discretion of the court, to be exercised in the same manner and on the same principles as between subject and subject, and the court may order payment of costs by or to His Majesty accordingly.

Recovery of Possession of Land.—(No. 26.) This new Act supplies a simple and inexpensive procedure for the removal of persons, other than overholding tenants, from land wrongfully occupied by them. Except where the title to land comes *bona fide* into question, an order for possession may be obtained on an *ex parte* application to the judge of the proper district court. An appeal to a King's Bench judge lies from an order or decision of the district court judge.

Municipal Medical and Hospital Services.—(No. 55.) Under this new legislation the council of a town, village or rural municipality may, pursuant to a by-law approved by a vote of the persons entitled to vote thereon, make agreements with one or more medical practitioners or surgeons for services to residents of the municipality or the portion thereof affected by the by-law, and make agreements with one or more hospital boards for hospital services to such residents. For the purpose of meeting expenditures under the said agreements a tax, approved by the Provincial Health Services Board, is collected from residents of the municipality.

Municipal Improvements Assistance.—(No. 56.) This Act enables municipalities to take advantage of the provisions of the Municipal Improvements Assistance Act, 1938, of Canada, under which loans at 2 per cent. interest may be obtained from the Government of Canada for the construction, extension or improvement of any municipal project, *e.g.*, a waterworks system, gas plant or electric light system.

Housing.—(No. 57.) This Act authorizes cities, towns and villages to do anything contemplated by or required to be done under the provisions of Part II of the National Housing Act, 1938, of Canada. That Act authorizes the Minister of Finance for Canada to make loans to municipalities for the purpose of assisting in the construction of houses

to be built under a low-rental housing project and to be leased to families of low income. Such loans bear interest at 1¾ per cent. and may be made up to 90 per cent. of the cost of construction.

Landlord and Tenant.—(No. 79.) A new section inserted in the Landlord and Tenant Act provides that, notwithstanding anything contained in the sections of the Act governing proceedings against overholding tenants, if the monthly rental payable by the tenant did not exceed $15 and the land is situated in an urban municipality, the proceedings may be taken before a police magistrate instead of a district court judge.

Vehicles.—(No. 83.) This is a revision and consolidation of the Vehicles Act and the Public Service Vehicles Act. The new Act governs the registration of all motor vehicles and trailers, the licensing of operators of motor vehicles, the registration of dealers and manufacturers, the accommodation and equipment of motor vehicles, speed and rules of the road, the duties of persons in charge of vehicles involved in accidents, and the financial responsibility of owners and operators of motor vehicles.

Conditional Sales.—(No. 88.) Amendments to the Conditional Sales Act follow along the lines of the provisions of the English Hire-Purchase Act, of 1938, respecting warranties and conditions implied in hire-purchase agreements. Another amendment provides that no conditional sale agreement or lien note, or agreement collateral thereto, shall contain any provision, the application of which depends merely on the opinion of the seller or bailor that a circumstance or state of things exists which affects his security, and that any such provision shall be null, void and of no effect.

Industrial Development.—(No. 91.) This Act provides for the appointment of an industrial development board, the object of which will be the encouragement generally of industrial development in the province, and in particular, *inter alia*, encouragement of the development of established industries, encouragement of, and assistance in, the establishment of new industries in the province, co-operation with other bodies, having objects similar to those of the board, in the industrial development of Western Canada, encouragement of the decentralization of industries in Canada where economically feasible and establishment of branch plants in the province, investigation of the natural resources of the province and promotion of the utilization thereof.

Regulation of Trade Schools.—(No. 92.) This Act requires the annual registration of persons keeping or operating trade schools and of persons acting as agents of trade schools, and provides for the issue of certificates of registration. These schools are subject to Governmental inspection, and a certificate of registration may be cancelled if a school is found to be insufficiently provided with desirable equipment and means of instruction, or if it is found that the educational and physical welfare of the students is insufficiently provided for, or that the charges made for instruction are unreasonable. A trade school is defined as a school or place wherein any trade is taught, or purported to be taught, or whereby any course of study of a trade by correspondence is organized, promoted, carried on, taught or purported to be taught, subject to exceptions with respect to the University of Saskatchewan, school boards, Governmental departments, and certain aviation clubs.

Civil Rights.—(No. 93.) A consolidation of the Limitation of Civil Rights Act, 1933, contains further restrictive provisions affecting mortgagees and vendors.

No payment made after April 1, 1939, or acknowledgment given after that date to a mortgagee or vendor of land, of or in respect of moneys payable under the mortgage or agreement of sale, shall have the effect of extending the time within which an action on the personal covenant for payment in the mortgage or agreement must be commenced by the mortgagee or vendor, except as against the person by whom the payment is made or the acknowledgment is given.

Notwithstanding anything contained in any agreement for sale of land or in any mortgage of land, no erection, machinery, plant, building, improvement or other chattel erected, placed or put upon farm land sold or mortgaged shall, by reason only of a declaration, agreement or covenant in the agreement of sale or mortgage, become or be deemed to be part of the realty or form part of the security.

Notwithstanding anything contained in any agreement for sale of land or in any mortgage of land, in the event of non-payment of the principal money secured by the agreement of sale or mortgage, or of any portion thereof, when due under the terms of the agreement or mortgage, the vendor or mortgagee shall not, by reason of such non-payment or as a condition of acceptance of the overdue moneys or any portion thereof, be entitled to receive any bonus or other additional sum or to receive notice from the purchaser or mortgagor of intention to pay the overdue moneys or any portion thereof.

Authority is given to the court to proceed on compassionate grounds in disposing of actions by mortgagees and vendors of land or their personal representatives or assigns.

Other new sections restrict the rights of repossession of vendors under conditional sale agreements affecting farm implements and certain other articles, the selling price whereof exceeds $50. These provisions are to some extent similar to the provisions of the English Hire-Purchase Act of 1938.

11. NEWFOUNDLAND.

[*Contributed by* H. G. PUDDESTER, ESQ., LL.B.]

During the calendar year fifty-four Acts were passed. Many of these Acts make minor amendments or involve administrative matters of merely local interest, and those only hereinafter referred to seem likely to be of any general interest.

Fishery and Agricultural Produce.—No. 1 is designed to bring about in a non-compulsory manner improvement in the quality of articles of produce by the establishment of grade designation and grade designation marks to indicate the quality of articles of produce to which they may be applied. There are special provisions as to the grading and marking of imported, preserved and cold chemical storage eggs.

Broadcasting.—No. 2 constitutes the Broadcasting Corporation of Newfoundland as a body corporate to manage and control radio broadcasting in Newfoundland and its Dependencies.

Seal Fishery.—No. 3 makes temporary provision for the 1939 Seal Fishery by allowing ships to sail on March 3 instead of March 5 and prohibiting the killing of seals before March 10. It also allows the killing of seals on Sunday.

Education.—No. 6 constitutes the Department of Education as a Department of the Government, under the Commissioner for Home

Affairs, having the execution of laws and orders of the Governor in Commission relating to educational matters.

Wireless Telephony.—No. 9 allows the Avalon Telephone Company, Limited, to establish wireless telephone communication between St. John's and the system in Corner Brook, Grand Falls and the Burin Peninsula. Provision is made for renting by the Company to the Broadcasting Corporation of Newfoundland the use of the company's intercommunication system for the purpose of re-broadcasting programmes originating outside of St. John's.

Notes.—No. 10 provides that Newfoundland notes now outstanding shall continue to be legal tender in payment of sums up to $50.00 and that they shall be secured on the general revenue of Newfoundland. It provides, also, for the maintenance at a bank in St. John's of an account into which the Commissioner for Finance shall from time to time deposit sums required for the redemption of outstanding notes.

Currency.—No. 11 makes notes of the Bank of Canada legal tender in Newfoundland for any amount and in satisfaction of any obligation to pay in gold coin or any specific tender.

Penitentiary.—No. 13 provides for medical examination of persons on admission to penitentiary, such examination to include any form of examination or test, including a blood test, ordinarily used for detection of a disease not apparent on external examination.

Wrecks.—No. 16 transfers to the Commissioner for Public Utilities powers formerly had by Minister of Marine and Fisheries, and makes provision for removal of wrecks which are a menace to navigation.

Accident Insurance Companies.—No. 19 consolidates the Acts relating to accident insurance companies and makes it compulsory for accident insurance companies doing business in Newfoundland to take out an annual licence.

Co-operative Societies.—No. 22 is designed to regulate and give legal status to co-operative societies which have been functioning in Newfoundland during the last three years.

Electricity.—No. 23 gives, pursuant to a petition of certain residents of Channel and Port-aux-Basques, an exclusive franchise to certain contractors for fifty years for the lighting of these two settlements and their vicinity by electricity and for the sale of electric power for other purposes. Provision is made for the purchase of the system by the Government after thirty years at a price to be ascertained by arbitrators.

Logging.—No. 29 is designed to facilitate the operations of a company formed to develop a logging enterprise in the vicinity of Lake Melville in Labrador. The enterprise consists of the cutting, preparing for export and export of wood cut on areas described in the Act, and the building of the necessary wharves, mills, booms, etc.

Fishing Trade with Italy.—No. 31 is an Act to amend and consolidate the Acts authorizing the undertaking of insurance for the purpose of maintaining the codfish trade with Italy. No. 43 amends the Italian Shipments Insurance Act, 1939. The former Act amends and consolidates the previous Acts dealing with the insurance of shippers of codfish to Italy against any abnormal or exceptional risks which cannot otherwise be insured on reasonable terms or at all, in order to maintain the trade in codfish with that country. The latter Act increases the amount of insurance permitted by the former in dealing with a certain cargo of fish in transit to Italy at the date of passing of the latter.

Herring Industry.—No. 33 confirms an agreement dated June 27, 1939, between the Government and North American Fisheries, Limited, to which the Santa Cruz Oil Corporation has assigned its rights privileges and liabilities under the provisions of an Agreement dated May 18, 1937, between the Government and the Corporation, and designed to assist the establishment of an industry for processing herring into oil and meal. The new agreement supplements and varies the original agreement.

Defence.—No. 37 confers upon the Governor in Commission power to make war regulations designed to secure the public safety and the defence of Newfoundland.

Trading with the Enemy.—No. 38 is designed to prevent trading with the enemy during the war, and No. 40 deals with the appointment and duties of the Custodian of Enemy Property in Newfoundland.

Customs.—No. 39 confers certain emergency powers on the Board of Customs, allowing it to seize goods being imported, exported, carried coastwise or otherwise in contravention of an order made by the Governor in Commission prohibiting such importation, etc., of goods and pending the issue of such order to take any action to prevent such importation, etc., of goods.

Codfish.—No. 44 is designed to fix minimum prices for codfish, and, to secure that result. It permits the Commissioner for Natural Resources, under certain conditions, to compensate licensed exporters for certain losses which may result from the payment of such minimum prices to fishermen.

Militia.—No. 45 permits the Governor in Commission to raise by voluntary enlistment an armed force for home defence service.

Forestry.—No. 47 creates, under the control and management of the Commissioner for Natural Resources, a Forestry Unit to serve in the United Kingdom in the production of timber.

Fishing Industry.—No. 49 is an Act for the confirmation of an Agreement between the Government and General Seafoods Corporation. It is designed to assist the establishment of an industry for processing certain kinds of fish in Newfoundland for duty-free importation into the United States.

Paper.—No. 50 revises the liability of the Anglo-Newfoundland Development Company, Limited, to pay certain import duties and taxes in order to encourage the development of the manufacture of sulphite pulp for export and to increase the manufacture of paper in Newfoundland.

Public Health.—No. 52 amends in some particulars the Health and Public Welfare Act, 1931, and makes provision for the reporting of deaths in institutions and for the protection of child life.

Savings Bank.—No. 53 places the Newfoundland Savings Bank under the direction and control of the Commissioner for Finance, assisted by an Advisory Board, who shall have power to make, amend and alter rules and regulations for the management of the Bank subject to disallowance within one month by the Governor in Commission.

Agricultural Produce.—This Act is designed to regulate the marketing of Newfoundland agricultural products by means of schemes which may be submitted to the Commissioner for Natural Resources and approved by the Governor in Commission after certain conditions as to publication for comment, etc., have been complied with. Schemes may be applicable to any part of Newfoundland or to the country as a whole.

12. BERMUDA.

Forty-seven Acts received assent between January 28, 1939, and December 22, 1939.

Aliens.—Provision is made for the deportation of aliens by Act No. 2.

Education.—Six scholarships of £200 a year for girls are established by No. 6 to enable them to be educated for a period not exceeding three years at some educational establishment abroad.

Criminal Code.—Better provision is made for the punishment of sedition, robbery and housebreaking and kindred offences by No. 7. The Act also abolishes the punishments of solitary confinement and being fed on bread and water.

Census.—Provision was made by No. 10 for a special census to be taken in addition to the usual decennial census.

Emergency Powers.—Provision for securing the public safety, welfare and defence of the island was made by No. 26.

Volunteers.—A force of volunteers to form a reserve for the Bermuda Volunteer Force is authorized by No. 28.

Trading with the Enemy.—No. 29 follows the usual lines in making provision against trading with the enemy.

Motor Cars.—War required special provision for motor cars of any description to be allowed, by No. 30, on the roads of the island.

Service Corps.—No. 33 authorized the raising of a corps of workmen to carry out works of public utility to alleviate unemployment during the state of war.

Civil Service.—Special provision for civil servants released for war service is made by No. 45.

III. AUSTRALIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* Sir George Knowles, C.B.E., M.A., LL.M., *Solicitor-General and Parliamentary Draftsman.*]

The eighty-seven Acts passed by the Commonwealth Parliament during 1939 included several war measures, notably the National Security Act and the Trading with the Enemy Act. The National Registration Act for the registration of man power, and the Supply and Development Act relating to munitions and the resources of Australia were passed and in force prior to the outbreak of war. There were also many Acts to amend the existing customs tariff and excise tariff and to enable bounties to be paid on the production of Australian-made articles and material. Annuities were provided for the widow and family of the late Prime Minister (the Rt. Hon. J. A. Lyons) by the Special Annuities Act (No. 4).

Aliens.—The Aliens Registration Act (No. 12) was assented to on June 21, 1939, but was not brought into operation, as, soon after the outbreak of war, provision was made, by Regulations under the National Security Act, for the registration of aliens. The Act provides for the establishment of a Register of Aliens, and an Index of Aliens, and imposes an obligation on every alien to make application to be registered under the Act. An alien is also required to notify his change of address and may also be required to report himself to an officer specified by the Minister. The Act is not to apply to consuls and their wives and dependents and to the masters and crews of public vessels of any Government.

Assistance to States.[1]—The States' Grants Act, 1939 (No. 33), grants and applies the sum of £2,020,000 for the purposes of financial assistance to the States of South Australia, Western Australia and Tasmania. The States' Grants (Youth Employment) Act (No. 10) makes provision for the grant of £200,000 to be allotted among the States for the purpose of providing facilities for the training for, and the placing in, employment of persons between the ages of 18 and 25 years.

Bounties.—The Canvas and Duck Bounty Act (No. 73) enables a bounty to be paid on the production of canvas and duck woven wholly from cotton. The rate of bounty is fixed at 2½*d.* per pound and, in addition, 1*d.* per square yard. The bounty is payable during a period of three years and the total bounty payable in any one financial year is not to exceed £45,000. The payment of a bounty on the production of engine units included in motor vehicles is authorized by the Motor Vehicle Engine Bounty Act (No. 69). The amount of bounty is not to exceed £600,000 in any one financial year, but will not commence until there is in Australia a factory with complete works and properly equipped for the manufacture of 8,000 engine units per annum. The rate of bounty varies from £30 to £20 per engine unit in accordance with the number of engine units produced. Engine units are to contain not less than 90 per cent. of Australian materials. The Newsprinting Paper Bounty Act (No. 82) amends the Newsprinting Paper Bounty Act, 1938, by the insertion of a provision to ensure that rates of wages paid and conditions of employment observed by a claimant for bounty are not less favourable than those prescribed by an industrial authority of the Commonwealth or State. This provision appears in other Bounty Acts. The effect of the Raw Cotton Bounty Act (No. 68) is to extend the payment of the bounty on raw cotton for one year from December 1, 1939. The Ship Bounty Act (No. 45) provides for a bounty, for a period of three years, on the construction of ships and parts of ships. The rates of bounty range from £12 10*s.* 0*d.* to £10 per gross ton. Under the Sulphur Bounty Act (No. 36) bounty on sulphur or sulphuric acid is to be payable for a period of 5 years. The rate of bounty is to be £1 7*s.* 0*d.* per ton, but this rate is to be decreased or increased according as the imported cost of sulphur exceeds or is less than £6 per ton respectively. Besides amending the Sulphur Bounty Act to enable the rate of bounty to be fixed quarterly instead of yearly, the Sulphur Bounty Act (No. 2) (No. 79) empowers the Minister to withhold bounty if standard rates and conditions of employment are not observed by claimants. The Tractor Bounty Act (No. 35) authorizes for 5 years the payment of a bounty on tractors produced in Australia. The amount of bounty is not to exceed £35,000 during any one financial year. The rate of bounty payable which is fixed by reference to the brake horse power ranges from £32 to £72 per tractor. The factory cost of materials and parts wholly made in Australia is to be not less than 90 per cent. of the factory cost of the tractor. Where this percentage is not reached, the bounty is to be reduced proportionately. The Tractor Bounty Act (No. 2) (No. 80) makes provision for ensuring that standard rates of wages and conditions of employment are observed by claimants for bounty on the production of tractors. The Tyre Cord Bounty Act (No. 75) enables payment of a bounty to be made on tyre cord and tyre cord fabric used solely in the manufacture of pneumatic tyres. The Act fixes the rate of

[1] See also "Wheat Industry" *infra* p. 81

bounty at $2\frac{1}{4}d.$ per pound. The bounty is payable over a period of 3 years. The Wine Export Bounty Act (No. 44) provides for a payment of a bounty of 1*s.* per gallon on the export of fortified wine which is exported between March 1, 1940, and February 28, 1945. Provision is made for a bounty on wire netting by the Wire Netting Bounty Act (No. 37). The rate of bounty is 9*s.* 7*d.* per ton and is payable during a period of 5 years. The Wire Netting Bounty Act (No. 2) (Act No. 81) provides that bounty may be withheld if standard rates of wages and conditions of employment are not observed by claimants for bounty.

Customs.—Seven Acts were passed to amend the Schedule to the existing Customs Tariff—Acts Nos. 2, 28, 53, 56, 59, 62 and 64. The items affected by the Customs Tariff (No. 2) include those relating to ale, spirits and beverages; agricultural products and groceries; textiles, felts and furs and manufactures thereof, and attire; metals and machinery; oils, paints and varnishes; earthenware, cement, china, glass and stone; drugs and chemicals; wood, wicker and cane; hides, leather and rubber; paper and stationery; vehicles and miscellaneous articles, including carpet sweepers, vacuum cleaners, fireworks and casein sheets, rods and tubes. The Customs Tariff (No. 2) Act (No. 28) amends the duties of Customs in respect of certain articles shown under Division VI (Metals and Machinery), and under Division XIV (Vehicles) and in respect of cartridges. The Customs Tariff (No. 3) (No. 53) further amends the Schedule and affects the duties of Customs imposed on ale and beer, whisky, gin, rum, cotton cord fabric, power kerosene, crude lubricating distillate, petroleum and shale products, mineral lubricating oil, benzol, naphtha and kapok fibre. The Customs Tariff (No. 4) (No. 56) provides for alterations in the duties of Customs on glucose; agricultural products and groceries; textiles, felts and furs and manufactures and attire; metals and machinery; oils, paints and varnishes; drugs and chemicals; jewellery and fancy goods; hides, leather and rubber; paper and stationery, and certain other miscellaneous articles; while the Customs Tariff (No. 5) Act (No. 59) affects textiles, felts and furs; metals and machinery; paper and stationery; and vehicles. The Customs Tariff (No. 6) Act (No. 62) amends the duties payable in respect of machinery and ships, and the Customs Tariff (No. 7) Act (No. 64) makes amendments to the duties imposed on kinematograph films. The Customs Tariff Validation Act (No. 76) validates the collection of duties of Customs demanded or collected on or before June 6, 1940, under proposals introduced into the House of Representatives on December 6, 1939.

The Customs Tariff (Canadian Preference) Act (No. 58) and the Customs Tariff (Canadian Preference) (No. 2) Act (No. 61) made certain amendments in the Schedule to the Customs Tariff (Canadian Preference), 1934-1938. The articles affected are certain textiles, brake and transmission linings and radiator assemblies. The Customs Tariff (Canadian Preference) Validation Act (No. 78) validates the collection of duties of Customs demanded or collected on or before June 6, 1940, under the Customs Tariff (Canadian Preference) proposals introduced into the House of Representatives on December 6, 1939.

The Customs Tariff (Exchange Adjustment) Act, 1939 (No. 3), the Customs Tariff (Exchange Adjustment) Act (No. 2) (No. 57), the Customs Tariff (Exchange Adjustment) Act (No. 3) (No. 60) and the Customs Tariff (Exchange Adjustment) Act (No. 4) (No. 63) exclude certain items from the Schedule to the Customs Tariff (Exchange Adjustment) Act, 1933-1938,

by reason of other provision being made in respect thereof in Acts amending the Customs Tariff. The Customs Tariff (Exchange Adjustment) Validation Act (No. 77) validates the alterations in the variations of duties of Customs made on or before June 6, 1940, in accordance with proposals introduced into the House of Representatives on December 6, 1939.

The Customs Tariff (Newfoundland Preference) Act (No. 50) imposes duties of Customs at the rates in force under the British Preferential Tariff on certain newsprinting paper the produce or manufacture of Newfoundland.

Defence—(i) *Military.*—The Defence Act was amended by the Defence Act, 1939 (No. 13), the Defence Act (No. 2) (No. 38) and the Defence Act (No. 3) (No. 70). The Defence Act, 1939, provides for the extension of the Defence Act to the Territories of the Commonwealth. Certain parts of the Acts are not, however, to extend to the native inhabitants of any Territory governed by the Commonwealth under a Mandate. The Act also enables the Governor-General to appoint parts of Australia as Commands. The Defence Act (No. 2) modifies the provision in the Defence Act relating to the exemption from service in time of war of persons who satisfy the prescribed authority that their conscientious beliefs do not allow them to bear arms. As amended, the Act allows exemption to persons whose conscientious beliefs do not allow them to bear arms. The purpose of Defence Act (No. 3) is to debar from superannuation rights officers and soldiers appointed or enlisted on or after September 3, 1939, in a military force raised in time of war or appointed or enlisted solely for service in time of war.

(ii) *Air Force.*—The Air Force Act (No. 74) applies certain portions of the Defence Act to the Air Force. Members of the Air Force may be required to serve within or beyond the limits of the Commonwealth, but no member is required to serve beyond those limits unless he voluntarily agrees to do so. The Act provides that, subject to any modifications which are prescribed, the Imperial Force Act is to apply in relation to the Air Force in like manner as it applies to the Royal Air Force. It also provides that a member of the Air Force borne on the books of a vessel of the Commonwealth Naval Forces shall be subject to the Naval Defence Act.

(iii) *General.*—The Defence (Visiting Forces) Act, 1939 (No. 5) applies to the visiting forces of the United Kingdom and the British Dominions their local disciplinary code when in Australia.

Excise.—The Excise Tariff, 1939 (No. 29), and the Excise Tariff (No. 2) Act (No. 54) amend the duties of Excise set forth in the Schedule to the existing Excise Tariff. The items affected relate to wireless telegraphy, valves, beer, whisky, rum, gin, and benzol. The Excise Tariff (No. 3) Act (No. 65) relates to duties of Excise on petroleum produced by the National Oil Proprietary Ltd. This company has entered into an agreement with the Commonwealth for producing petrol and oil from shale. (See below under the heading "Shale Oil Industry.")

Industrial Property.—The Patents, Trade Marks, Designs and Copyright (War Powers) Act, 1939 (No. 66) makes special provision in relation to patents, trade marks, designs and copyright in consequence of the present war. Existing licences in favour of persons resident in Australia are not to be invalid by reason of the fact that the proprietor of the patent, etc., is an enemy subject. A licence may, however, be revoked by the Attorney-General. Power is conferred on the Attorney-General to grant

to any person not an enemy subject a licence in respect of a patent, registered design or copyright, the proprietor of which is an enemy subject. A patent may be granted, or a trade mark, design or copyright registered, on the application of an enemy subject, but he shall not be entitled to require delivery of the patent or be entitled to the issue of the certificate of registration. Trade marks owned by enemy subjects may be suspended by the Attorney-General. The Act permits the payment of fees in respect of patents in an enemy country.

Judiciary.—The Judiciary Act (No. 43) removes a doubt that had existed as to the Admiralty jurisdiction possessed by the Supreme Courts of the States.

Munitions.—The Supply and Development Act (No. 6) sets out the functions of the new Department of Supply and Development and specifies the matters to be administered by it. These matters relate to the provision or supply of munitions; the manufacture or assembly of aircraft by the Commonwealth; arrangements for the establishment or extension of industries for purposes of defence; the acquisition, maintenance and disposal of stocks of goods in connexion with defence; arrangements for ascertaining costs and for the control and limitation of profits in relation to the production of munitions; the arrangement or co-ordination of surveys of Australian industrial capacity, and the preparation of plans to ensure the effective operation of Australian industry in time of war, and the investigation and development of Australian sources of supply of goods necessary for the economic security of the Commonwealth in time of war. The Governor-General is authorized to establish, maintain and operate munition factories for the supply of munitions and factories for the manufacture or assembly of aircraft or parts of aircraft. The Supply and Development Act (No. 2) Act (No. 40) clarifies certain matters in relation to the power to make regulations given by the Principal Act; and, by the Supply and Development Act (No. 3) Act (No. 71) power is conferred to purchase factories for the manufacture or assembly of aircraft.

National Insurance.—The National Health and Pensions Insurance Act, 1939 (No. 8), annuls the Proclamations which brought into operation the larger portion of the National Health and Pensions Insurance Act, 1938, and the two Acts imposing the contributions to be paid. The power to proclaim the commencement of the Parts, Divisions and Sections of the Act, however, is retained, but is not to be exercised unless and until a resolution approving such exercise has been passed by both Houses of the Parliament.

National Registration.—The National Registration Act (No. 11) provides for the taking of censuses for the purpose of national registration and for the establishment of a National Register. It sets up a National Register and authorizes a census of male persons over 18 and under 65 and also a census of property.

National Security.—The National Security Act (No. 15) makes provision for the making of regulations for securing the safety and defence of the Commonwealth and its Territories during the war and for the more efficient prosecution of the war and, particularly, amongst other things, in relation to: (*a*) the taking possession or control of property; (*b*) aliens; (*c*) the application to naturalized persons of regulations relating to aliens; (*d*) the conditions of disposal or use of property and goods; (*e*) the disclosure of information; (*f*) the prevention of money or goods

being sent out of the Commonwealth; and (*g*) the entry upon or search of premises.

The regulations may empower persons to make orders, rules or by-laws for any of the purposes for which the regulations may be made. Power is conferred to arrest without warrant persons suspected of committing offences against the Act. Such offences may be prosecuted summarily or on indictment. The penalty on conviction on summary prosecution is a fine not exceeding £100 or imprisonment for a term not exceeding 6 months or both and on conviction on indictment a fine of any amount or imprisonment for any term or both.

The power to make regulations does not extend to authorize the imposition of compulsory defence service, industrial conscription or the extension of existing obligations as to the rendering of compulsory service; neither does it extend to the making of provision for trial of civilians by courts-martial. Regulations are, however, to have effect notwithstanding anything inconsistent therewith in any other law except the Acts Interpretation Act and the National Security Act.

Post and Telegraph.—The Postal Rates (Defence Forces) Act (No. 48) makes provision for reduced rates of postage for mail matter posted within the Commonwealth by a member of the Naval, Military or Air Forces and addressed to any person in the Commonwealth, and by any person when the mail matter is addressed to any such member either within or beyond the Commonwealth. The Act will apply to members of the Permanent Naval, Military or Air Forces, to members of the Forces called up or enlisted for war service, and to members of the Militia Forces when in camp.

Public Service.—The Commonwealth Public Service Act (No. 72) amends the existing Commonwealth Public Service Act by inserting in the Act a provision which confers on the Public Service Board power to regard an appeal against promotion as having been made by an officer granted leave for war service. A further amendment enables leave to be granted to officers called up in pursuance of the Defence Act for war service.

Science and Industry Research.—The Science and Industry Research Act (No. 1) amends the Science and Industry Research Act, 1920-1937. The amendments provide for the appointment of Vice-Chairmen of State Committees who are to be members of the Council for Scientific and Industrial Research. The Act confers on the Council power to acquire property by purchase and to appoint permanent staff without necessarily prescribing all the conditions of employment. It also enables the Council to employ temporary or casual employees for periods of not more than 12 months, without Ministerial approval.

Seat of Government.—The Seat of Government (Administration) Act (No. 86) removes uncertainties in regard to leasehold titles in the Australian Capital Territory and dealings generally in land effected under the terms of several Ordinances, and validates certain transactions in relation to those lands. It also enables the Governor-General to make Ordinances having retrospective effect.

Shale Oil Industry.—The National Oil Proprietary Limited Agreement Act (No. 47) approves and ratifies an agreement between the Commonwealth of Australia, the State of New South Wales and the company known as the National Oil Proprietary Limited. The agreement excludes certain land from the operation of the previous agreement

made between the parties in 1937. It also enables the Prime Minister of the Commonwealth and the Premier of New South Wales to release a defined area of land from the land in respect of which the Company had executed a deed of covenant and charge as security for advances made to it.

Statutes.—The Rules Publication Act (No. 55) provides for the incorporation of amendments in any reprint of statutory rules. In every such reprint reference is to be made in the margin or a footnote to the rules or other instrument by which the amendment is made.

Taxation.—(i) *Gold Tax.*—A new feature was introduced into taxation legislation by the Gold Tax Collection Act (No. 51) and the Gold Tax Act (No. 52). The tax imposed is one-half of the amount by which the amount payable by the Commonwealth Bank in respect of gold exceeds £9 per ounce of fine gold. A bona fide prospector is entitled to a refund of the tax to the extent of the tax paid by him upon the first 25 ounces of gold on which he pays tax in any year.

(ii) *Income Tax.*—The Income Tax Assessment Act (No. 30) makes provision for a specified amount of unrecouped capital expenditure being an allowable deduction in respect of income derived from carrying on mining operations in Australia or New Guinea for the purpose of obtaining petroleum. Another amendment excepts shareholders who are non-resident companies from the rebate provided for in Section 46 of the Act in respect of dividends. The rates of income tax for the financial year 1939-40 are imposed and levied by the Income Tax Act (No. 31).

(iii) *Sales Tax.*—The Sales Tax Act (Nos. 1 to 9) (Acts Nos. 16 to 24) increase the sales tax from 5 per cent. to 6 per cent. on and after September 9, 1939. The Sales Tax Assessment Act (No. 5) 1930-1936 was amended by the Sales Tax Assessment Act (No. 5) (Act No. 26) to provide that in calculating the sale value of goods, the value for duty of the goods is to be converted into Australian currency. The Sales Tax Exemptions Act (No. 32) exempts from sales tax certain defence supplies and plant and building materials for use in connexion with the manufacture of defence supplies. These are materials and machinery used in connexion with the setting up of armament annexes and also uniforms and equipment for members of the Defence Forces and Cadet Units.

(iv) *Miscellaneous.*—Legislation in relation to the flour tax is referred to under the heading " Wheat Industry " (below).

Territories.—The Northern Territory (Administration) Act (No. 85) enacts, in respect of the Northern Territory, provisions similar in effect to those of the Seat of Government (Administration) Act, 1939.

Trade Agreements.—Acts were passed to approve of two trade agreements between the Commonwealth and the Government of Newfoundland, and the Commonwealth and the Government of Brazil (Acts Nos. 49 and 83, respectively). The agreement with Newfoundland provides that butter and canned fruits, the produce or manufacture of Australia, on importation into Newfoundland, are to be accorded exclusive tariff preference of 1 cent per lb. in the case of butter and 10 per cent. ad valorem in the case of canned fruits. It also provides that newsprinting paper, the produce or manufacture of Newfoundland, on importation into Australia, shall be accorded the benefits of the British Preferential Tariff. Under the agreement with Brazil, articles the produce or manufacture of Brazil imported into Australia are to receive treatment not less favourable than that accorded to like articles the produce or manufacture of any

other foreign country, and similar treatment is accorded to Australian articles imported into Brazil.

Trading with the Enemy.—The Trading with the Enemy Act (No. 14) enumerates the acts or transactions which, if performed or taken part in by a person, are deemed to be trading with the enemy. These are acts or transactions prohibited by Proclamation made by the King or the Governor-General, and acts or transactions which persons are, by notice in the Commonwealth *Gazette,* warned not to do, or which, at common law or by statute, constitute trading with the enemy. The punishment which may be imposed in the case of an offence prosecuted summarily is a fine of £500 or imprisonment for 12 months, or both; and, if the offence is prosecuted upon indictment, the penalty is a fine of any amount or imprisonment for 7 years, or both. The Act enables the Minister to apply to the High Court for the appointment of a controller of the business of an enemy person, firm or corporation. Licences may be issued exempting any particular transaction or class of transactions from the provisions of the Act.

Wheat Industry.—Financial arrangements for carrying out a scheme for the regulation and control of the wheat industry during the present war are made by the Wheat Industry (War-time Control) Act (No. 84). The Act suspends the operation of certain sections of the Wheat Industry Assistance Act, 1938, and provides that moneys paid into the Wheat Industry Stabilization Fund established by that Act on or after December 2, 1939, other than certain specific amounts, are to be paid to the Commonwealth Bank in part repayment of advances by the Bank to the Commonwealth under the Wheat Acquisition Regulations. The Flour Tax (Wheat Industry Assistance) Assessment Act (No. 27) validates certain declarations by the Minister of rates of flour tax.

2. NEW SOUTH WALES.

It is hoped to publish a summary in the next issue.

3. QUEENSLAND.[1]

Thirty-six Public Acts were passed in the year and three local, personal, and private.

Patriotic Funds.—Act No. 5 extends the measure of control of the Government over all Patriotic Funds and widens the definition while limiting it to funds to which the Governor-in-Council has given his approval of the objects.

Sugar.—Act No. 11 implements the recommendations of the majority report of the Royal Commission upon Sugar and cognate matters. It deals primarily with "farm peaks," which are defined to be "the maximum quantity of sugar-cane grown upon lands assigned to a mill which the grower is entitled to deliver to that mill and to receive payment for."

Motor Insurance.—By an amending Act, No. 27, the liability of a motor car owner for the acts of an authorized agent are limited to £750 which is the amount fixed by statute to be covered by an insurance policy.

Workmen's Compensation.—An amending Act, No. 36, introduces compensation to a worker, who after being injured, suffers a further accidental injury in the course of a journey to obtain compensation or medical treatment. It also extends the list of occupational diseases which

[1] This Review is based upon the Summary issued by the Premier and Chief Secretary's Department.

are deemed to be injury by accident by adding, " any disease with which the Laboratory of Micro-Biology and Pathology is experimenting at the time of infection, and also by adding silicosis of the lungs, pulmonary tuberculosis, as occupational diseases in respect of grinding, sieving, or scrutching furnace bricks."

The total weekly compensation is increased from £2 15s. to £3, while additional payments in respect of dependants are also increased. Previously, the maximum weekly compensation payable to a worker with dependants was the basic wage, but under this amending Act this sum is increased to his average weekly earnings or £5, whichever is the less.

A further amendment provides that in any case where compensation has already been paid for partial disability suffered to a part of the body which is subsequently totally lost by accidental injury, then the amount already paid for such partial disability shall be set off against the compensation payable for the total loss.

Aboriginals.—Consolidating Measure No. 6 contains the law relating to the preservation and protection of aboriginals. There is a comprehensive definition of " aboriginal " so that it applies, among others, to any person who has a preponderance of aboriginal blood or any half-blood declared by a judge or police magistrate after a trial to be in need of the protection of the Act.

Medical Men.—Another consolidating measure is No. 10, which contains the law relating to medical practitioners. It provides for the constitution of a Medical Board, with powers analogous to those of the General Medical Council in England. The Director-General of Health and Medical Services is *ex officio* Chairman. Three of the members are nominated by the Crown and three by the medical profession. The possibility of the medical profession declining to nominate members is anticipated in a section which enables the Board to be constituted without them.

An important departure from existing legislation is made by the division of medical practitioners into two classes, namely, medical practitioners and specialists, who are to be placed on a separate register. In addition to academic qualifications a medical practitioner must have had twelve months' service as a resident medical officer in a hospital, or actual practice for at least three years in a state or country outside Queensland. In order that the necessary facilities may be available the Governor-in-Council may require the Queensland hospitals to appoint as resident medical officers medical students who have the specified academic qualifications.

Another new provision enables medical men not registered in Queensland who come to Queensland at the request of the University or some other responsible authority to engage in teaching or research work to be registered as medical practitioners for the period during which they are so engaged in the State. Qualifications for registration as a specialist are (1) in respect of an application made before the end of 1941, proof of special skill in a particular specialty by adequate experience therein in practice for a period of not less than five years, or in a hospital approved by the Board for not less than three years, or partly in practice and partly in a hospital for not less than four years; and (2) if the application is made after 1941, in addition to the above qualification, the obtaining of the diploma in the specialty concerned in any case where a diploma in that specialty is commonly granted or recognized.

Pharmacy.—The object of Act No. 16 is to confer upon the Board similar powers to punish professional misconduct as is given to the tribunal under the Medical Act.

Public Health.—No. 34 is a measure dealing with a variety of subjects in relation to public health. In particular, there is a note that the Director-General of the Health Department is given power to prohibit the sale of articles capable of causing bodily harm or discomfort to man. At the time novelty shops are featuring stink bombs. In many cases these bombs are identical with those used by criminals in America. The Commissioner of Police was very anxious that the sale of such articles should be discouraged in Queensland.

Another police measure is one which gives power to obtain a warrant to search premises whereon a female is suspected to be for the purposes of an illegal operation. As the law stands, there is not such power. Hence, when a female is reported as a missing person, though the police are often quite certain where she is, they have no power to act. Briefly, the procedure is this: Upon complaint upon oath to a justice by a policeman that he suspects that the female reported as a missing person is, or a female is for the purposes of any illegal operation, or the dead body of a female as aforesaid is, in or upon any place, the justice may grant a search warrant.

Air Raid Wardens.—Provision for war conditions is contained in Act No. 35 which authorizes air raid wardens to carry out their duties during the period of any air raid. Incidentally, it provides that a warden during a raid shall be deemed to be a worker within the meaning of the Workmen's Compensation Act.

Brisbane.—Act No. 30 is somewhat unusual as it gives authority to the Governor-in-Council to intervene in the proceedings of an important local authority. He may second an officer of the Public Service to the Council of the City of Brisbane whose duty it will be to arrange the business and, if necessary, to allot their respective duties to officers and employees " as will ensure the establishment and continuance of a proper standard of efficiency and economy in the service of the Council."

Another matter in which the Governor-in-Council has had power to intervene has been the authority to rescind any resolution passed by the City Council. It was argued that the date of rescission was the date upon which he made his order and as this was obviously liable to render the whole thing useless, the new Act now brings into operation the rescission from the date of the passing of the resolution.

Margarine.—The purport of Act No. 22 is to tighten up the control of the manufacture and marketing of margarine, and to limit the use which may be made in the manufacture of margarine of fats or oils imported from outside Australia. Henceforth manufacturers of margarine must be licensed and will only be permitted to manufacture margarine upon premises which are registered as factories.

Criminal Code.—An addition to the Criminal Code by Act No. 28 makes it an offence for any person to create or join in any disturbance in Parliament House or within the precincts thereof at any time other than during an actual sitting of Parliament, or at the office or residence of the Governor or of any member of the Legislative Assembly or of the Executive Council.

Sewers.—The legislation relating to the regulating of mines is extended by No. 3 to sewers.

Petroleum.—In order to encourage a more intensive search for oil within the State, Act No. 19 extends the area for which a permit may be granted. At present it is not to exceed ten acres, but under the new Act the area may be two hundred square miles, and there is a corresponding increase in the area of a petroleum lease.

4. SOUTH AUSTRALIA.

[*Contributed by* E. L. Bean, Esq., M.A., LL.B., *Parliamentary Draftsman.*]

During the Parliamentary session of 1939 the South Australian Parliament passed 49 Acts, of which the following are the most important.

Aborigines.—Prior to the passing of Act No. 14 the aborigines of South Australia were under the control of an official known as the Chief Protector of Aborigines, who, in carrying out his functions, was subject to the control of a Minister of the Crown. By the amending Act of 1939 the office of Chief Protector is abolished and an honorary Board of seven members, of which the Minister is Chairman, is constituted. This Board takes over the functions of the Chief Protector and many of the functions of the Minister and will administer the laws relating to aborigines.

Under these laws control was exerciseable only over aborigines of the whole blood and some half-castes. The new Act gives control over all persons of any aboriginal blood; but the Board is empowered to exempt by declaration any aborigine (whether of the full blood or less) from the provisions of the Act. When an unconditional declaration is made in respect of any person, he will cease to be regarded as an aborigine for all purposes under the law.

Architects.—Act No. 35 provides for the registration of architects. It is to be administered by an Architects' Board of nine members, six of them elected by registered architects, and three appointed by the Governor. The Act does not prevent unregistered architects from practising, but an unregistered architect is not entitled to adopt the title " architect " or " architectural practitioner " or any words or title likely to lead to the belief that he is a registered architect. There is a provision for an annual registration fee not exceeding £2 2*s.* 0*d.*, and power for the Board to deal with professional misconduct.

The qualifications for registration are set out in detail. The general scheme is to register as architects all those engaged in the practice of architecture when the Act comes into force; but in future registration will only be obtainable by passing one of the recognised examinations.

Art Gallery, Libraries and Museum.—Under the previous law the Public Library, the Art Gallery and the Museum of South Australia were jointly administered by one Board of Governors. The Board appointed its own officers and generally had complete charge of the affairs of the institutions under its control. Acts No. 28, No. 44, No. 30 respectively provide that, in future, each institution will be controlled by a separate Board. The previous Board of Governors consisted of 14 members, some being appointed by the Governor and others by various organizations. Under the new arrangement the Libraries Board will consist of 7 members and the Art Gallery and Museum Boards of 5 members each, all members being appointed by the Governor.

Each institution is made a department of the public service of the State and its officers are transferred to that service. Instead of being

appointed by the controlling Board, the officers of each institution will be appointed by the Governor in the same way as other public servants, and the principal librarian of the Public Library and the directors of the Art Gallery and Museum will be heads of departments. Each Board will control the funds voted by Parliament for its institution, and the general policy of the institution.

The powers of the Libraries Board are enlarged to enable it to extend its book lending services, to conduct courses of training and examinations for librarians and to prepare a catalogue of all books in all the libraries of the State.

Cattle Compensation.—Act No. 15 imposes a stamp duty of one penny in the pound on all money realized from the sale of cattle, with a maximum duty of 1*s.* 8*d.* on the sale of any one head of cattle. The proceeds of the duty will form a fund from which compensation will be paid to owners of cattle. Compensation is payable when cattle are destroyed pursuant to the order of an inspector because the cattle are suffering from or suspected to be suffering from disease, and when carcasses of cattle are condemned by an inspector by reason of disease. Disease is defined to mean pleuro-pneumonia, tuberculosis, actinomycosis, or Johne's disease. If after destruction cattle are found to be free from disease, the full market value will be payable as compensation. If they are found to be diseased, three-quarters of the market value will be paid. In no case is the market value to be deemed to be more than £20 per head, and in every case the amount of the residual value of the cattle is to be deducted from the compensation. Compensation for carcasses is to be at the rates prescribed by regulation. Provisions are included to prevent fraudulent applications for compensation. The practice previously in existence at the metropolitan markets, whereby purchasers of cattle required vendors to permit a deduction of ten shillings per cent. of the purchase price to constitute an insurance fund is prohibited.

Collections for Charitable Purposes.—Act No. 16 provides for controlling collections made and entertainments held for the purpose of raising funds for charitable purposes. "Charitable purposes" is defined to include the affording of relief to diseased, sick, infirm and poor persons and their dependents, and includes various purposes connected with the war, such as the raising of funds for the supply of comforts to or for the assistance of members of the naval, military and air forces. Every person or association of persons which makes a collection or conducts an entertainment for charitable purposes must be licensed, and every collector must be authorized by a licensee. Licences are issued gratis by the Minister, and all applications are considered by an advisory committee, which advises the Minister as to the issue of licences so as to prevent overlapping of effort and the exploitation of charitable funds by means of excessive commissions, and to ensure that licences are issued to proper persons. The Act also provides for returns by licensees and the audit of their accounts. In a proper case, control of funds collected for charitable purposes may be taken over by the Minister; and funds collected for one purpose may be used for other purposes.

Companies.—The principal provision in Act No. 46 is one empowering the Governor, on the recommendation of the Attorney-General, to appoint the Auditor-General, the Registrar of Companies or any other competent person, as an inspector to investigate the affairs of any company. Before any such appointment is made, however, the Attorney-General must have a recommendation from the Commissioner of Police or the Registrar

stating that he has reasonable cause to suspect that the company is not carrying on business in good faith in the interests of the shareholders, or that the directors, managers, or officers have been guilty of fraud or negligence, or that the company is endeavouring to raise capital from the public by unlawful or dishonest means. The other amendments contained in this Act are minor amendments which do not affect existing principles.

Constitution.—Act No. 48 makes some amendments to the Constitution of the State, mainly with the object of relaxing the rules which forbid holders of offices of profit and of contracts with the Crown, from sitting in Parliament. Retired public servants in receipt of pensions from the State Government are declared to be eligible to sit in Parliament. A Member of Parliament is declared not to be disqualified merely because he has a contract for the supply or provision by or to the Government or by or to any person on behalf of the Government of any goods, chattels or services, where such goods, chattels or services are to be provided on the usual terms available to ordinary members of the public. Further, the fact that a man has received a loan from the Crown which has not been repaid does not disqualify him from election or prevent him from holding a seat, if the loan was received before he became a Member of Parliament. Members of Parliament who sit on Royal Commissions and Committees are declared to be entitled to fees from the Crown without affecting their right to sit. Finally, there is a provision for remunerating the Parliamentary Committee on Subordinate Legislation which has been constituted under the Standing Orders.

Act No. 49 reduces the term of office of the House of Assembly, including the House of Assembly now in existence, from five years to three years.

Crown Lands.—Act No. 40 contains a number of amendments to the administrative provisions of the Crown Lands Act. For the most part it does not introduce any new principles. There are, however, one or two sections of some interest. The first is a provision enabling the Commissioner of Crown Lands to purchase land for allotment to a single settler. Under the previously existing law the Minister was enabled to buy blocks of land suitable for subdivision among two or more settlers. There was, however, no power for the Commissioner to buy a block of land for the purpose of allotting it to one settler only. The amending Act enables such a transaction to be carried out. The land purchased must be part of an existing holding which, in the opinion of the Commissioner, is more than a living area, or the whole of an existing holding which, in the opinion of the Commissioner, is less than a living area. There is also a provision declaring that all future perpetual leases and all future agreements for the sale of Crown Lands shall provide for a reserve of scrub land, not exceeding one-tenth of the total area comprised in the lease or agreement, to be set apart as a soil conservation reserve. The lessee or purchaser is forbidden to destroy any of the scrub growth on the reserve.

Hairdressers' Registration.—Act No. 29 provides for the registration of hairdressers. A Board is constituted to deal with applications for registration and to conduct examinations. Any person who satisfies the Board that he was practising hairdressing of any prescribed class at any time within twelve months of the commencement of the Act and that he has had at least six months' experience in that class of hairdressing, will be entitled to registration in respect of that class of hairdressing. Future

applicants for registration will be required to complete a course of training prescribed by the Board or will have to satisfy the Board that they have been engaged for at least five years in the practice of hairdressing of the class in which registration is desired.

An unregistered person is forbidden to use the name or title of hairdresser or to assume any title or description implying that he is registered; but unregistered persons are not prohibited from carrying on hairdressing. The taking of premiums or bonuses from apprentices or others desiring to be taught hairdressing is prohibited.

Increase of Rent.—The object of Act No. 20 is to prevent unwarranted increases of rent of dwelling houses from being made during the war. The general principle is to standardise rents at the rates prevailing on September 1, 1939. Any increase in the rent of a dwelling house over and above the rent charged on that date is declared to be irrecoverable by the landlord. Landlords are also prevented from evicting their tenants except in certain circumstances set out in the Act. Landlords are, however, entitled to increase the standard rent above that prevailing on September 1, 1939, in cases where money has been spent on the property. The Act is a temporary one only and will expire on the 30th day of September, 1940, or six months after the end of the present war, whichever is earlier.

Irrigation on Private Property.—Act No. 38 provides that the owners of reclaimed land in any area adjacent to the River Murray may present a petition for the constitution of a private irrigation area. Where a private irrigation area is constituted, the owners of reclaimed land within the area constitute the board of management. The principal duty of a board is to erect and maintain embankments to protect its area from inundation by the River Murray. For carrying out its functions a board may levy rates on the reclaimed land within its area, and borrow money on debentures or overdraft. A board is also given general power to control irrigation within its area. At meetings of a board, each member is entitled to one vote for every acre of reclaimed land owned by him. A board may delegate any of its functions to a committee of its members.

Life Assurance Companies.—Act No. 42 provides that a life policy or a provision of a life policy shall not be void or voidable merely because it stipulates that money will become payable on the suicide of any person; and that where a policy provides for payment of money on the death of a person, that provision, subject to anything to the contrary expressed in the policy, means that the money is payable on the death of that person whether by suicide or otherwise. The section applies to policies whether issued before or after the Act.

Local Government.—Act No. 43 makes numerous amendments to the principal Act, most of them being of a minor nature. Among the more important is a provision that where, under the powers given by the principal Act, a Council has attempted to sell by auction rateable property in order to recover arrears of rates, but no bid has been obtained, the Council may, with the consent of the Commissioner of Crown Lands, transfer the land either to the Crown or to the Council. Upon such a transfer, the land will pass free of charges of any kind. A Council is given power to authorize landholders to plant trees and shrubs on roads adjoining their land. It is also provided that before a Council destroys any tree on any land under its control, a resolution of the Council must be passed for the purpose. Councils are authorized to borrow on overdraft

against fixed deposits in any bank. Councils which conduct electric supply undertakings are empowered to sell or hire electrical fittings to their consumers and for the purpose of acquiring stocks of fittings the borrowing powers of Councils are extended. In order to prevent annoyance from the use of amplifiers in or near streets for advertising and other purposes, it is made an offence to use an amplifier in this way without the consent of the Council. Councils are also empowered to control the display of advertisements on vehicles and placards in streets.

Lottery and Gaming.—Act No. 13 empowers the Betting Control Board to make rules prescribing fees to be paid for bookmakers' licences, registration of betting premises, and other matters. Provision is also made for the audit of the Board's accounts by the Auditor-General.

Margarine.—Act No. 37 regulates the manufacture and sale of margarine. It requires margarine manufacturers to be licensed. The Minister of Agriculture has a discretion to grant or refuse a licence, but those who have had registered margarine factories before the passing of the Act, however, are entitled to licences as of right, and when a licence has once been granted the licensee is entitled to annual renewals so long as he has not violated the law. Licences remain in force for one year.

There are also "quota" provisions under which the Minister of Agriculture is empowered to declare the maximum amount of table margarine which any person named in the declaration may manufacture during the period specified therein. "Table margarine" is defined as margarine containing any fat or oil produced elsewhere than in Australia. There are also provisions imposing on vendors of margarine the duty of labelling every package in which margarine is sold with letters clearly indicating that the substance sold is margarine.

Mental Defectives.—Act No. 31 provides for the annual licensing of private institutions for mental defectives and enables regulations to be made relating to the management and inspection of these institutions. Provision is made so that a person who has been found mentally defective on inquisition may be declared by the Supreme Court to be capable of managing his affairs without the necessity of a further inquisition. Any person discharged from a mental institution is given the right to secure a copy of the documents upon which he was received into the institution and the authorities are authorized to supply to any person who has a proper reason for making inquiry, particulars of any person confined in a mental institution or private mental home.

Native Plants Protection.—Act No. 32 provides that any native plant or wild flower may be proclaimed as a protected native plant or protected wild flower within any portion of the State and during any period specified as a protected period. It is made an offence to pick any protected plant or wild flower during any protected period on any Crown lands, land reserved for a public purpose, street or road, forest reserve, or on any private land (unless the owner has given permission in that behalf). Penalties are also provided for selling any protected plant or wild flower during a protected period. Provision is made for the appointment of honorary inspectors to assist in administering the Act.

Noxious Weeds.—Act No. 19 provides that where a municipal or district council, in pursuance of its powers under the principal Act, destroys noxious weeds on any land three acres or more in extent which is owned or occupied by more than one person but is not subdivided by

dividing fences, the total cost so incurred may be apportioned among the owners or occupiers on an acreage basis. Previously, each owner or occupier could be made liable only for the cost incurred in destroying noxious weeds actually on his land and in the absence of dividing fences it was frequently difficult to ascertain the amount of the cost incurred on any particular parcel of land. The definition of noxious weed is amended to enable regulations to be made declaring that dead weeds are to be noxious weeds.

Stock Medicines.—Act No. 26 provides that no stock medicine is to be sold unless registered. Upon application for registration (which is required annually) the prescription for the stock medicine and a statement of the diseases it is claimed to cure or alleviate must be submitted for inquiry by a Board. Registration will not be effected except in accordance with the recommendation of the Board. It will be an offence to sell any stock medicine which does not conform with the registered prescription or in respect of which any claims are made other than those submitted with the application for registration. The Act provides for the labelling of registered stock medicines. Dealers in stock medicines must annually give notice of their places of business. Exemptions are provided in respect of stock medicines prescribed by a registered veterinary surgeon or compounded in respect of particular stock by a registered pharmaceutical chemist.

Pastoral Land.—Act No. 22 confers power on the Government to resume pastoral lands for the purpose of conducting observations, investigations, research and experiments in relation to problems affecting pastoral land or the pastoral industry, or for reserves for the preservation of any natural features or other objects of public or scientific interest. There is a further power for the Crown to purchase pastoral leases with the object of re-allotting them so as to create larger holdings.

Primary Producers' Debts.—Act No. 5 extends the time within which applications for the adjustment of the debts of a primary producer may be made, until June 30, 1940. It also enables the Government, after the debts of a primary producer have been adjusted, to make him further loans out of money granted to the State by the Commonwealth, and to write off further debts due to the State.

Real Property.—Act No. 36 enacts several new provisions relating to transfers and other dealings in land. It sets out what may be done in cases where a joint mortgagee or joint encumbrancee refuses to join in the proceedings to enforce rights under the mortgage or encumbrance. It also provides that a transfer of land must contain a statement by the transferee that he accepts the transfer. In the past there has been no provision for indicating on a transfer of land whether or not the transferee accepts the transfer, and in some cases land has been transferred to unwitting transferees with the object of avoiding liabilities. There is also a provision enabling any person who has been registered without his consent as the proprietor of land, to disclaim it and have his name taken off the Register Book.

Road and Railway Transport.—Act No. 47 contains a number of amendments for the purpose of securing more stringent control over the carriage of passengers and goods for hire by unlicensed vehicles. There has grown up in South Australia a practice under which a carrier, instead of carrying goods for hire, lets, or purports to let, his vehicle on hire to the person whose goods are to be carried. The Act provides that the consent

of the Transport Control Board to every such letting of a vehicle will be required in future. Further, no person will be entitled to carry passengers on a goods-carrying vehicle on a controlled route without the consent of the Transport Control Board. Carriers' agents are required to be registered and to keep proper records. The question of the wages and working conditions of motor drivers is required to be referred to the State Industrial Court. There are a number of minor provisions for tightening up the control over licensed vehicles and for preventing evasions of the Act.

Soil Conservation.—Act No. 25 contains some miscellaneous provisions for empowering the Crown to take measures to prevent the erosion of soil by wind, water and other natural processes. An Advisory Committee is established to advise the Minister on the action to be taken under the Act. The general powers conferred on the Minister includes power to acquire land, to proclaim and maintain soil conservation reserves, to carry out works for conserving the soil, to make loans and grants of money for soil conservation, to restrict the use of stock routes, and, where it is thought desirable, to prohibit the cutting of trees. There is also power to prevent overstocking of pastoral leases whether granted before or after the Act.

Weights and Measures.—Hitherto, standards of weight and measure deposited in the office of the Director of Lands, constituted the standards of weight and measure for South Australia. These were required to be compared with the Imperial standards at least once in 20 years. Act No. 9 provides that, in lieu of this system, copies of the Imperial standards are to be obtained from time to time and are to be the Government standards.

The administration of those sections of the principal Act which relate to the licensing and testing of petrol pumps and weighbridges, which at present is vested jointly in the Warden of Standards and Local Government bodies, is from July 1, 1940, to be vested in the Warden of Standards alone.

Wrongs.—Act No. 18 contains a number of amendments to the Statute law relating to wrongs. These amendments are as follows:—

(*a*) Under Section 12 of the Wrongs Act, 1936, the publication of reports of the proceedings of Parliament, if such publication is authorized by the House concerned, is privileged in actions for defamation. There is, however, no standing authority for the publication of Hansard reports, and Parliament does not pass any resolutions authorizing their publication. In order, therefore, to make it clear that Hansard reports are published with the authority of Parliament an express declaration to that effect is enacted. A similar provision is also included relating to the daily Notice Paper of Parliament.

(*b*) The provisions of the enactments commonly called the Fatal Accidents Act, conferring upon the dependents and relatives of a deceased person a right to compensation against any person whose wrongful act or negligence caused his death are conferred upon illegitimate children and the parents of illegitimate children. It is also provided that the compensation payable shall include funeral expenses.

(*c*) The provisions recently enacted in the United Kingdom for giving a joint tortfeasor a right of contribution against any other joint tortfeasor liable for the same wrong are enacted substantially as in the law of the United Kingdom.

(*d*) A declaration that in proceedings for personal injuries the plaintiff shall not be debarred from recovery of damages merely because the injury

complained of arose wholly or in part from mental or nervous shock is enacted.

(*e*) The provisions of the English Shipowners Negligence (Remedies Act), 1907, U.K. 5, Edw. 7, c. 10, are also enacted.

5. TASMANIA.

Seventy Acts received the Royal Assent between July 27 and December 21. They include measures which in England are classified as Public, Local and Personal and Private. Among the last, for example, is No. 2, granting a pension to the widow of a former Premier, Mr. A. G. Ogilvie.

Income-tax.—No. 20 imposes an income-tax and enacts that " the rate of income-tax of all income of any person represented by prizes or by lottery authorized by law in this State shall be 4*s.* 3*d.* for every pound of such income," which is appreciably higher than the ordinary rate of income-tax.

Juries.—An amendment of the Jury Act of 1899 by No. 38 imposes on women the duty of serving on juries on the same terms as men.

Mental Hospitals.—The Act of 1858 dealing with mental hospitals is brought up-to-date by No. 37 which makes provision for voluntary boarders.

Housing.—The effect of war conditions is shown in No. 39, which applies to the State the restriction of the increase of rent authorized by the National Security (Fair Rents) Regulations made by the Governor-General under the National Security Act, 1939, of the Commonwealth. The State Act restricts, in view of war conditions, the increase of the rent of dwelling-houses and shops and authorizes the constitution of Fair Rents Boards for the purpose of determining fair rents for them.

Money-lending.—The law on the subject of money-lending passed in 1915 is brought up-to-date by No. 44, which regulates the conditions requiring moneylenders to be registered and carry on their business.

Debts.—No. 49 makes provision for the enforcement of the payment of debts of a particular type. It refers to the debts due by contractors and a contractor is defined to be " any person not being an employee of the employer who has entered into contract with an employer to do any work involving the employment of labour or the supply of materials by the contractor."

Civil Servants.—Leave for State employees on war service is provided for by No. 51 upon conditions similar to those adopted elsewhere.

Beauty Culture.—Provision is made for the registration of ladies' hairdressers and beauty culturists by No. 53. " Beauty culturist " is defined to mean " a person not being a registered medical practitioner who for fee or reward undertakes or professes to enhance the beauty of another person by treatment." It includes the usual provision that unregistered persons carrying on the business of a ladies' hairdresser, manicurist, chiropodist or beauty culturist is liable to a penalty.

Defence.—The final Acts of the session include No. 59, authorizing and making provision for the taking of precautions for the protection of persons and property from injury and damage in the event of hostile attack and generally make provision for civil defence and the security of the State in war time. The Act constitutes an organization known as the Civil Defence Legion and in a schedule includes a plan showing in diagrammatic form the responsibility of the different Government depart-

ments in respect to the various services. In doing so it is appreciated that the State's own organization must be related to the defence arrangements of the Commonwealth. Accordingly the schedule explains that the function of the Commonwealth is to make adequate provision for the defence of Australia from enemy attack in any form. " The function of the State and the instrumentalities created by the State," it proceeds, " is to provide for the safety and care of the civil population from the consequences of enemy attack. The form of attack which appears to be the most formidable in its consequences is attack by air-raid."

Fruit.—Further provision is made for the small fruit grower in No. 63, which contains revised provisions relating to the constitution of the Stone and Berry Fruits Board, including qualifications of the members and the methods of election.

Occupational Diseases.—Amendments are made in the principal Act of 1928 establishing a relief fund for sufferers from occupational diseases. In particular it is extended to nurses and requires that their employers shall make a contribution to the fund of the weekly sum of 3*d.* in respect of every nurse employed by them. This is met by a grant from the State. A nurse who ceases to be an employee but carries on the business of nursing on her own account may continue to contribute to the fund under specified conditions.

6. VICTORIA.

[*Contributed by* S. H. Z. Woinarski, Esq., M.A., LL.B.]

In the great majority of the ninety Acts passed during the third session of the thirty-third Parliament of Victoria (Nos. 4631-4720) there is little of general interest, however important their local application. Of the remainder, some may not unfairly be said to contain matter of wider concern, and twelve of these are dealt with in some detail hereunder. Others pertain to special war legislation and they are noticed below under one group. For a portion of them a precedent was readily, although unhappily, found in the measures consequent upon the last war.

Public Trustee.—No. 4654 is entitled An Act relating to the Appointment of a Public Trustee and the Powers and Duties thereof and for other purposes, and this title well enough denotes its object, but as the Act introduces not only this named official into Victorian law but, as well, some novel provisions in relation to him, it deserves some consideration of the particulars. The Act itself owes something to corresponding legislation in some of the other Australian States, *e.g.*, No. 19 of 1913 of New South Wales and 6 Geo. V, No. 14 of Queensland, and, of course, to the Imperial Act 6 Edw. VII, c. 55 ; for the rest, local legislation relating to the office of Master in Equity and to the duties superimposed upon him from time to time has supplied a copious source of imitation and adaptation.

In general the Act provides for the appointment, powers and duties of a Public Trustee, who is to be a corporation sole and the successor in law of the Curator of the estates of deceased persons (whose office is abolished) and also of the Master in Equity with respect to the care, protection and management of estates of lunatic patients (not being lunatics so found) and mental treatment patients. The Public Trustee is also given further powers and duties by this Act. These may be divided into two main categories.

In the first place he may, subject to the Act, be appointed trustee, executor, administrator, guardian, committee, agent or attorney in any

case where such appointment may be made by any public officer, court, judge, person or body. His appointment as administrator, however, is limited to cases where no other person entitled is ready to take a grant of administration; but he will be preferred to creditors unless any creditor proves that his own appointment would be more beneficial to the estate. Notwithstanding the grant of probate or administration to the Public Trustee, the court may transfer such grant to some other person. As executor or administrator the Public Trustee is to act under grants of probate or letters of administration, and not (as had the Curator) under grants of rules to administer. Special facilities are provided to the Public Trustee for the distribution of assets when there are conflicting claims, for simplification of calculation of administration and probate duties, and for payment to persons outside Victoria; and special provision is made with respect to the distribution by him of estates of illegitimate intestates and of certain small estates. The estates of intestates, between death and the grant of administration, are to vest in the Public Trustee instead of in the Chief Justice of the Supreme Court. Notwithstanding anything in any Act or the terms of any trust as to the number of trustees, the Public Trustee may, unless expressly prohibited by the terms of the trust, be appointed or become a sole trustee. He may also be appointed as custodian trustee in conjunction with managing trustees or as an advisory trustee in conjunction with other trustees.

In the second place, the Public Trustee is, subject to the detailed provisions of the Act and any orders of court, entrusted with the care, protection and management of estates of lunatic patients, mental treatment patients (*i.e.*, soldiers, sailors and airmen of the last war who are suffering from mental disorders) and infirm persons. This last class consists of those persons who, by reason of senility, disease, illness or physical or mental infirmity, are incapable of managing their affairs and who are certified under this Act, after medical and other enquiry (but by the Public Trustee himself) to be infirm persons. This was one of the most debated provisions of the Act; so far as this State goes, it introduces a new personality into the law and creates a new status—that of the infirm person, which recalls the Παρανοῶν of Athenian law, and, it may be, one day a Victorian Sophocles will arise to confound the claims of a local Iophon and the certificate of the Public Trustee.

In this same division of his functions the Public Trustee is empowered to apply for their benefit the property of persons acquitted on the ground of insanity or upon arraignment or trial found by a jury to be insane. He is charged also with the responsibility of obtaining orders under the Lunacy Acts against relatives of lunatic patients for the payment of moneys for their maintenance.

On the financial side, moneys coming into the hands of the Public Trustee are to be paid into a fund at the Treasury, but subject to Treasury directions, he may operate on an account kept by himself. He may charge fees at prescribed rates for his services. Expenses incurred by him in the management of estates are to be met from those estates; other expenses are to be met from consolidated revenue. He is to keep accounts for the inspection and audit of which provision is duly made. The consolidated revenue is to be liable to make good all sums required to discharge any liability which the Public Trustee, if he were a private trustee, would be personally liable to discharge.

Lastly, provision is made for the supervision of the Public Trustee in

his various capacities by the court, for his indemnity when acting on the order or advice of the court, for the protection of persons dealing with him and for the employment by him of family solicitors or " named " solicitors. Rules of court may be made on procedural matters and regulations may be made on administrative and general matters.

Architects.—No. 4659 gives protection to the profession of architects by prohibiting the use of the title " architects," or any similar title, by unregistered architects, and provides for the registration as architects of certain persons who have *bona fide* been practising that profession. The prohibition does not extend to a person practising naval architecture or to any person employed as an officer in the public service of Victoria or of the Commonwealth or to an employee of a statutory authority constituted for public purposes in respect of his employment as such officer or employee. The remaining portion of the Act is concerned with administration. It provides that appeals against cancellation or suspension by the Architects Board (a Board constituted by the principal Act, No. 3638) of the registration of any architect are to be by way of rehearing and by that method an appeal against the refusal of the Board to register, or to annul any cancellation or suspension of registration may be made to a judge in chambers either of the Supreme Court or of County Courts.

Instruments (Insurance Contracts).—No. 4660 effects two amendments in relation to contracts of life insurance. By the first, which follows substantially New South Wales legislation (No. 21 of 1938), the decision of the House of Lords in *Beresford* v. *Royal Insurance Co.* ([1938] A.C. 586) is made not to apply in Victoria inasmuch as this local Act provides that life insurance contracts are not to be avoided on the ground of public policy in the event of suicide. By the second amendment such contracts are not to be avoided on the ground of incorrect statements of the proponent which are material but which are not fraudulently untrue unless such statements have been made within the period of three years preceding the date upon which the contract is sought to be avoided.

Acts Interpretation.—No. 4683 is a short amending Act which keeps statutory interpretation in step with modern warfare by providing that any reference in any Act to the naval or military forces of the Commonwealth is to include a reference to the air forces of the Commonwealth.

Dog.—No. 4685 offers an interesting moral of legislation in all its social implications. It imposes a penalty on owners of dogs found in shops or of dogs not on a leash found in specified shopping areas or on specified bathing beaches.

> With children, friendly but untaught to fawn,
> Romped through the walks and frolicked on the lawn;
> Rejoiced, if one the frequent ball should throw,
> To fetch it, scampering gaily to and fro;
> Cantered through every change of sportive mood,
> If one dear voice, one only, called him good.

If this judgment of R. C. Lehmann is valid, it is clear that canine aspirations must turn elsewhere than to the voice of the Victorian legislature.

Motor Car (Third Party Insurance).—No. 4688 makes third party insurance compulsory upon motor car owners. It owes a lot to pioneer legislation passed in New Zealand in 1928 (No. 52 of 1928) and to corresponding South Australian legislation (Road Traffic Act, 1934-1938). Its scheme is this: It requires every owner (including His Majesty) of a motor

car to insure in accordance with the Act against any liability incurred by him or the driver (whether authorized or unauthorized) of the car in respect of the death of or bodily injury to any person (other than the driver or owner of the car) caused by or arising out of the use of the car, and for that purpose to enter directly or through the Chief Commissioner of Police into a contract of insurance with an authorized insurer. No registration or permit may be granted under the Motor Car Acts in respect of any car unless the owner is so insured. The establishment of a State Motor Car Insurance Office is provided for under the management of the Insurance Commissioner who manages the State Accident Insurance Office. The Insurance Commissioner is to be an authorized insurer, and contracts of insurance made by him under the Act are guaranteed by the Government of Victoria.

The amount of premiums payable for insurance are to be fixed from time to time by the Governor in Council on the recommendation of a Premiums Committee and these amounts may vary according to the class of car, the purposes for, and areas in which the car is to be used, and the number of cars owned by one person. From every premium paid there is to be deducted an amount of not less than one shilling and ninepence in respect of each car covered, which amount is to be applied towards reimbursing public hospitals the expenses incurred by them in the treatment of persons injured by cars.

Further, the effect of the Act is such as to provide a statutory form of contract, for by its provisions the authorized insurer is liable to indemnify not only the owner but also the driver of the car in respect of any liability for which the contract is required to provide. The insurer, however, is given a right of recovery against authorized and drunken drivers in respect of sums paid by the insurer in discharge of his liability. Where the owner or driver of a car involved in an accident dies or cannot be found damages may be recovered directly from the authorized insurer. Where a car involved in an accident is uninsured or its identity cannot be ascertained, judgment may, subject to the Act, be obtained against a nominal defendant to be named by the Minister and will be satisfied from contributions by all authorized insurers proportionate to the extent of their insurance business under the Act.

Provisions made for payment in certain cases by authorized insurers to hospitals, doctors, nurses, chemists and ambulance societies for treatment and services rendered to persons injured by cars. Authorized insurers are required to accept every application for insurance, but may apply to a court of petty sessions for the cancellation or suspension on the ground of public danger of the driving licence of any person. Agreements negativing the provisions of the Act are declared to be void.

The Act (which is to come into force when proclaimed) is completed by a number of miscellaneous provisions relating to the apportionment by courts of damages and costs where damages are awarded for death or bodily injury and also for other loss, the notification of accidents and of claims arising therefrom, the rights and duties of owners and insurers as to the control of litigation, the prohibition of soliciting for authority to conduct legal proceedings, medical examinations in connexion with litigation, the protection of infants and other persons under legal disability, the constitution and procedure of the Premiums Committee, penalties for false statements and for failure to comply with the Act, and certain transitory matters.

Forests.—No. 4703. This Act charges the Forests Commission with the duties of carrying out proper and sufficient work for fire prevention and control in every State forest. It is due to the disastrous bushfires which swept the State in January, 1939, and which caused considerable loss of life. As a result of those fires a Royal Commission was appointed to enquire into their causes and to suggest prophylactic measures. This Act is the result, although it does not go the whole way recommended in the report of the Commission. In one respect it is a local Act merely, for its scope can be appreciated only by those who have first-hand knowledge of conditions of climate and geography in this State, and for such the sections of the Act themselves should be consulted; but in broad outline those sections may be briefly summarised. They intensify safety precautions in restricting the use of fire, in extending provision for the removal of fire hazards by owners and occupiers and in the control of persons conducting industrial operations in or near forests.

Mental Deficiency.—No. 4704 provides for the establishment of State institutions and clinics and the registration of private institutions (which may receive financial aid from the State) for mental defectives, *i.e.*, imbeciles, feeble-minded persons and moral defectives, and retarded children. The scheme of administration adopted is this: Mental defectives and retarded children under the age of sixteen years may be admitted into institutions on the request of their parent or guardian, and if sixteen or over, on such a request accompanied by a medical certificate or on their own request. Justices of the Peace may order the removal to institutions of certain mental defectives or retarded children, such as those who are neglected or not cared for or cruelly treated. Prisoners and convicted persons and children brought before a children's court may also be removed to institutions on production of the certificate of a psychiatrist certifying that they are mental defectives or retarded children. This scheme is accompanied by precautionary provisions which require that persons admitted to institutions on a request or on an order of justices be examined within twenty-eight days after admission and be discharged unless so examined and certified; which permit the Director of Mental Hygiene at any time to discharge any person so admitted; and which required the periodical examination of all persons in institutions. This rather lengthy and detailed Act is completed by machinery sections and other provisions nowadays usual to this class of legislation.

Health (Sale of Horseflesh).—No 4711 prohibits the slaughter of horses for human consumption and at abattoirs where other animals are so slaughtered, prohibits the sale or preparation of horseflesh for human consumption and the sale of meat from boiling down works, and regulates the sale, possession and carting of horseflesh. It must be owned that this measure was passed in the entire absence of domestic agitation, and there are probably those who (when they become aware of it) may tend to think that the legislature has taken too much to heart the venerable jests of suburban boarders.

Weights and Measures.—No. 4712 is a comprehensive measure which replaces previous Victorian weights and measures legislation which had been found to be largely obsolete, having regard to modern trading conditions and practices. It is divided into six parts, of which Part I is preliminary, and consists of repealing, amending and interpretative provisions. In Part II the units and standards of weight and measure are defined and systematically arranged. The Imperial standards are the

fundamental standards, but it is noteworthy that opportunity has been taken to make the use of the metric system legal, and this is one of its most important provisions. Part III deals with administration, and provides for central as well as local administration. Part IV deals with the policing of the Act, with the inspection, verification and stamping of weights, measures, and weighing and measuring instruments used for trade. Part V relates to the sale of goods, and Part VI is that usual concomitant which contains such miscellaneous provisions as relate to offences, penalties, legal proceedings and the making of regulations.

Police Offences (Gaming).—No. 4714 introduces a social, or, as some may say, an anti-social amendment. It provides that certain named types of machines, including fruit machines and poker machines, are to be deemed to be machines, devices or contrivances of gaming, whether such machines are actually used in gaming or not. The effect of this is to render such machines illegal and, under this amending Act, liable to seizure by the police with or without warrant.

Motor Car (Illegal Use).—No. 4719 increases the penalties for taking or using motor cars without the consent of the owner, so that they now range for a first offence from a minimum fine of £5 to a maximum of £50 or six months' imprisonment, and for a second or subsequent offence to imprisonment for a maximum of two years. The real interest of this measure, however, lies in the form in which the Bill on which it was based was introduced. By that Bill it was provided that illegal use of a motor car was to be deemed a larceny thereof and punishable accordingly, but this was rejected in its passage, largely on the ground that such a provision was obnoxious to that element of larceny in English law which relates to the permanent deprivation of property.

War Legislation.—Under this head a number of measures was passed, unhappily of a familiar nature. Amid the spate of legislation *ejusdem generis* passed throughout the British Commonwealth, it can claim little novelty, but for the sake of completeness it should be noted. It may be divided into two classes. In the one class is contained provisions for national security, giving emergency powers to the Government; the other consists of measures giving various forms of relief or indulgence to members of the fighting forces as a result of a new economy. On the one side the National Security Emergency Powers Act (No. 4645) passed immediately after the outbreak of war, empowered the Governor in Council to make regulations having statutory effect for any purposes necessary or conducive to public safety or order or the life or health of the community, but so that no such regulation may impose any form of industrial conscription or affect the operation of any Wages Board determination. Financially, the Patriotic Funds Act (No. 4717) is designed to regulate and control the raising and collection of moneys for patriotic funds in connexion with the present war and the administration of those funds. On the other side, the Wills Act (No. 4684) is in line with the Imperial Act 7 & 8 Geo. V, c. 58, s. 3 ; the Execution of Instruments Act (No. 4693) facilitates the executions of instruments for the purposes of the Transfer of Land Acts by persons engaged on war service outside Victoria, and the Execution of Trusts Act (No. 4705) allows in certain cases a delegation of trust, and contains other provisions as to trustees and infants under the Settled Land Act on war service; while the Friendly Societies (War Service) Act (No. 4715) gives protection to persons who were members of friendly societies before the outbreak of war and who subsequently become engaged outside Australia on war service.

7. WESTERN AUSTRALIA.

[*Contributed by* C. E. Stow, Esq.]

The following is a summary of the principal Acts passed during 1939.

Profiteering Prevention.—This Act is aimed at the control of prices for commodities during war-time and it is to continue in force during the continuance of the present war and for six months thereafter. It provides for the appointment of a Commissioner, who may investigate and report to the controlling Minister on numerous specified matters, including the state of commodity prices, the quantities of commodities available, the probable requirements of the people and as to what should be the maximum selling prices of any commodities. The Governor may declare the commodities to which the Act applies from time to time and the maximum wholesale and retail prices for commodities so declared shall, until other maximum prices are declared on the recommendation of the Commissioner, be the prevailing prices current at the prescribed date, which for general purposes, is August 31, 1939.

The sale or offer by a trader of any commodity at a price above the declared or prevailing price or the refusal to sell in reasonable quantities at the declared or prevailing price is prohibited.

The Commissioner may require traders to furnish returns of commodities held by them and the Governor may, on the recommendation of the Commissioner, authorize the seizure and distribution for public use of any commodity which is being withheld from sale.

The Act contains provisions prohibiting monopolies and also prohibiting dealings by and with commercial trusts, except in the ordinary course of business. A commercial trust is defined as an association or combination of persons for the purpose of controlling or influencing the supply or demand or price of any commodity, or creating a monopoly in a commodity.

Contraceptives.—The insertion in a newspaper, periodical or other document printed in the State of any statement apparently intended to promote the sale of any contraceptive as such, or the exhibition publicly of any such statement or the sending or delivery gratuitously of any handbill or document containing any such statement, is prohibited by this Act. If any such statement is inserted in a newspaper, the printer, publisher and proprietor are, severally, to be guilty of an offence, but no proceedings can be taken against any of them unless he has been previously warned regarding a similar offence. The distribution in the State of a newspaper, handbill or other document printed outside the State and containing any statement apparently intended to promote the sale of any contraceptive is also prohibited, but the distributor may set up, as a defence, that he had no reason to believe that the statement complained of appeared in the document. Directors and Officers of Corporations and members of firms are made liable in respect of offences committed, with their knowledge, by the corporations or firms. Certain publications, including *bona fide* medical or pharmaceutical magazines, are excepted by the Act, but the burden of proof that an alleged offence is excused by the exception is in the defendant.

The Act also prohibits the exhibition of contraceptives within the public view, the hawking of contraceptives or sale or exposure for sale of the same in a public place, and the gratuitous delivery of contraceptives to any person by a shopkeeper. Wide powers of seizure in relation to

contraceptives unlawfully exhibited or exposed for sale are given to the police.

Government Railways. —This amendment of the Government Railways Act empowers the Commissioner of Railways to take steps to prevent danger from any light which might be mistaken for or interfere with the effectiveness of light signals or signs used as an aid or guide to railway traffic. The powers given are very similar to those given to navigation authorities by the Lights (Navigation Protection) Act, 1938, and virtually amount to a complete power of prohibition at the discretion of the Commissioner. The failure of any person to comply with any requirement of the Commissioner is to be deemed to be a tort in the nature of a nuisance for the purpose of recovery of damages resulting from such failure.

Dentists.—The existing Statutes relating to the practice of dentistry and the registration of dentists were repealed by the Dentists Act, 1939, which is largely a re-enactment of the former law, the main alterations being in respect of employment of assistants and the recognition of students and apprentices.

The Registrar is to keep a record of assistants in which is to be entered the names of assistants who are, within six months after the commencement of the Act, recognized by the Board as such. An applicant for recognition must satisfy the Board that he is a British subject of good character and that he has during certain defined periods prior to the commencement of the Act either practised dentistry as his principal means of livelihood at a place more than 250 miles from the nearest registered dentist or been engaged, as his principal means of livelihood, in the practice of dentistry under the supervision of a registered dentist. After the prescribed period of six months no person whose name does not appear in the record is to be employed as an assistant. An assistant must not perform any act of dentistry except while a dentist is in full time attendance and available to supervise the work, nor is he to exhibit any plate or notice containing any notification other than his name, without letters or description.

The Board may make rules relating to dental students, including the course of study to be followed, the lectures to be attended, and examinations. Students and apprentices must be registered and subject to the rules, must undergo a course of study extending over a period of not less than four years. Only a student or an apprentice may obtain the Board's diploma qualifying him for registration as a dentist.

In addition to students and apprentices who have obtained diplomas from the Board certain other persons, including persons holding diplomas from certain other bodies in British dominions and, in some cases, dentistry assistants may be registered as dentists.

Income-tax. — This amendment of the law relating to the assessment and collection of income-tax is to come into force on a date fixed by Proclamation but not earlier than July 1, 1940. Modelled upon Acts in force in Victoria and South Australia, it provides for collections on account of the income-tax of persons in receipt of salaries and wages at the source of income by means of deductions made by the employers. The employer when paying salaries or wages must deduct the prescribed amounts and deliver to the employee stamps to the value of the deduction, which stamps are to be purchased by the employer. The employee is to affix the stamps in a book provided by him for the purpose and initial

them in the presence of the employer or the person making payment on his behalf.

The employee at the proper time is to produce his stamp book to the Commissioner of Taxation, who will cancel the stamps and credit the face value thereof against income-tax payable by the employee, any excess amount being refunded. If the tax exceeds the face value of the stamps the employee must pay the difference to the Commissioner.

In approved cases deductions may be made without the issue of stamps, the employer then making payment of the amounts deducted direct to the Commissioner and supplying certificates, statements and other information as prescribed.

Any taxpayer, not being an employee, may purchase tax stamps in anticipation of receipt of his taxation assessment and may lodge them in payment or part payment of the assessment when it is issued. If he purchases stamps to a higher face value than is required he may obtain a refund.

Builders' Registration.—The Builders' Registration Board constituted by this Act is empowered to determine the course of training to be undertaken by and the examination of persons desiring to be registered as builders and to keep a register of builders.

A builder who has been trading as such for more than two years immediately prior to the passing of the Act and who is competent to carry out and supervise building work may be registered, but other applicants must undergo the prescribed training and pass the prescribed examinations.

No unregistered person may contract to erect a building, construct any building for the purpose of immediate sale or recover any fee under a contract to erect a building unless the total charge is less than £400 or he is an exempt person. Architects, engineers and certain other specified persons are exempt from the provisions of the Act.

The Board may cancel the registration of builder in certain circumstances, including negligence or fraudulent conduct on his part, but the builder may appeal to a stipendiary magistrate.

War Funds Regulation.—For the purpose of regulating the raising by private subscription of funds for the relief of distress occasioned by the war, the supply of comforts to the armed forces and the like, a War Funds Council is constituted. The Act prohibits the collection of money or articles for a war fund and the holding or advertising of any entertainment in aid of a war fund unless the authority of the Council has been obtained. No such authority is necessary in connexion with an appeal to the public at a public meeting and the Governor may exempt collections in aid of any particular objects.

With the approval of a resolution of both Houses of Parliament, the Governor may, by Proclamation, direct that moneys and articles in any war fund, which will not be required for the purposes for which the fund was established, shall be applied by the trustees of the fund to purposes connected with the war, but not authorized by the trust, or transferred to some other war fund, or transferred to the Council for allotment to other funds or for other purposes connected with the war.

The Governor may also vest in the Council the moneys and articles of any war fund if satisfied that there has been maladministration of the fund or that three-fourths of the trustees of the fund consent. The Governor may vary the trusts of such a fund, but otherwise it is to be held by the Council on the original trusts.

The trustees of every war fund are directed to supply prescribed statements and particulars to the Council. All moneys received by or on behalf of trustees of a war fund must be paid into a bank account.

Firearms and Guns.—This amendment of the Firearms and Guns Act, 1931, extends the definition of " Firearm " and " Pistol " to include therein weapons which can, by alteration in the construction of fabric thereof, be made capable of discharging missiles. Air guns, which were previously dealt with separately, are now treated as firearms or guns without distinction, and toy guns, which were previously excepted from the operation of the Act must now be registered. The Commissioner of Police is, subject to a right of appeal, empowered to refuse to issue a licence to an applicant if he is a person to whom it is not desirable, in the public interest, that a licence should be issued.

Testator's Family Maintenance.—The only statutory provision regarding testator's family maintenance was inappropriately continued in the Guardianship of Infants Act. That provision has now been repealed and has been re-enacted with extensions in the Testator's Family Maintenance Act. On application by the widow, widower or children of a testator who has disposed of his property by will in such manner as to leave the applicant without adequate provision for her or his proper maintenance, education or advancement, the Supreme Court may in its discretion order that provision shall be made out of the estate, and the order is to take effect as if the provision had been made by codicil of the testator immediately before his death. The Court may attach conditions to the order, may order that the provision shall consist of a lump sum or periodic or other payments, or may refuse to make an order on the ground of the character or conduct of the applicant or on any other ground which it thinks sufficient. Every application must be made within six months of grant of probate but, if the justice of the case requires it, the Court may extend the time.

Every order must specify the fact or facts of the estate out of which the provision is to be raised, the manner of raising it and the conditions, restrictions and limitations imposed by the Court. Unless otherwise ordered, the burden of the provision is to be borne by the beneficiaries under the will in proportion to value, but in the case of an estate or interest to which persons are successively entitled the proportion of estate or interest is to be charged against corpus.

The Court may rescind or alter, at any time, any order made under the Act. It may also fix a periodic payment or lump sum to be paid by a beneficiary in commutation of the burden to be borne by his interest under the will in connexion with any provision ordered and direct how such payment or lump sum shall be secured or paid and in what manner it shall be invested for the benefit of the person entitled. The beneficiary's interest is thereupon to be exonerated.

Where the Court has ordered periodic payments or ordered a lump sum to be invested for the benefit of any person, it may discharge, vary or suspend the order or substitute another order if the party benefited has otherwise become entitled to provision for his maintenance, education and advancement.

No mortgage or assignment of any provision made in anticipation of an order under the Act shall have any effect, and a mortgage or assignment made after the making of an order shall not have effect unless approved by the Court.

An executor may distribute the estate of a deceased after giving prescribed notice without regard to possible claims under the Act, but the Court may nevertheless order that provision be made under the Act from the estate so distributed.

Increase of Rent (War Restrictions).—This emergency Act is very similar in its provisions to the Imperial Fair Rents Act. It applies to all leases (including written or verbal agreements for the letting of land for any term) current on August 31, 1939, and all extensions and transfers thereof and any lease thereafter granted. The standard rent is fixed as the rent at which land was let at August 31, 1939, or, if it was not then let, the rent at which it was let before that date and the charging of a rent in excess of the standard is prohibited except in the case of new structural alterations being effected or under an order of the Court. The transfer of new burdens to the tenant is to be taken as an alteration of rent to the extent of the added financial liability, but, on the other hand, the assumption of any of the tenant's burdens by the landlord may be balanced by a corresponding increase in rent.

The Court may in special circumstances fix a fair rent which may be charged in lieu of the standard rent. It may also fix a fair rent to be charged in respect of premises first leased after August 31, 1939, if application is made within three months from the date of the first lease.

No order for recovery of possession of land to which the Act applies or for ejectment of a tenant therefrom is to be made so long as the tenant continues to pay the standard rent or the fair rent (as the case may be) and perform the other conditions of the tenancy, except on specified grounds, which include the committing of waste, sale of the land by the mortgagee thereof and any ground which may be deemed satisfactory by the Court.

The Act does not bind the Crown or any Crown instrumentality. It is to remain in force during the present war and for six months thereafter.

8. PAPUA.

Nineteen ordinances received the Royal Assent between July 3 and December 6.

Carriage of Goods by Sea.—No. 7 was passed to deal with the carriage of goods by sea and is based upon the Commonwealth Act, No. 22 of 1924, on the subject.

Constabulary.—As the title "Royal" had been bestowed upon the armed constabulary it was thought desirable to consolidate and amend in No. 11 the provisions relating to the establishment and maintenance of the force.

Motors.—An addition to the Criminal Code by No. 13 makes the offence of using a motor vehicle without the consent of the owner punishable by imprisonment with hard labour for one year or a fine of £100.

Aerodrome.—Land is acquired by the Government under No. 19 for the purposes of an aerodrome at Kila Kila and a direction-finding station.

9. NEW GUINEA.

[*Contributed by* GERALD HOGAN, ESQ., *Crown Law Officer.*]

In 1939 the Legislative Council of the Territory of New Guinea passed 27 Ordinances. The following is a summary of the more important enactments during the year 1939.

Police Force.—Ordinance No. 7 amends the Police Force Ordinance, 1930-1935, by creating a Special Reserve European Constabulary and by making provision for the appointment by the Administrator, when it appears to him that a state of emergency exists, of commissioned officers, warrant officers, sub-officers, and European constables to the Special Reserve European Constabulary.

Shipping.—Ordinance No. 11 amends the Shipping Ordinances, 1936, by the introduction of a provision authorizing the Administrator, where he is satisfied that any ship or class of ships is not ordinarily used for the carriage of passengers or cargo for valuable consideration, to suspend the operation of all or any of the provisions of the Shipping Ordinance, 1936-1939, in relation to that ship or class of ships.

Weights and Measures.—No. 13 replaces the Weights and Measures Ordinance 1913 of Papua, which was in force in the Territory, and makes a number of changes in the law.

Some of the sections in the Weights and Measures Ordinance, 1939, correspond with sections of the Imperial Act, while others have their counterparts in the legislation of the Australian States.

Under the Ordinance, the Superintendent of Police (the Chief Inspector of Weights and Measures) is charged with the administration of the Ordinance and given the superintendence and control of Inspectors of Weights and Measures.

Provision is made in Part III of the Ordinance for standard weights and measures and units of weight and measure. In effect, weights and measures of the standards for the United Kingdom are made the standard weights and measures for the Territory.

The use of weights and measures in trade is dealt with in Part IV of the Ordinance. It is provided that contracts and sales are to be according to standard weights and measures. Provision is made that where the net weight or measure of an article sold or held in possession for sale is stated in an invoice or a delivery note or is written or printed on a package enclosing the article and the net weight or measure is not correctly so stated, written, or printed, the person having such article in possession for sale or the seller or the person offering or exposing the article for sale shall be guilty of an offence.

Provision is made in Part V of the Ordinance for the verification and stamping of weights, measures, weighing instruments, and measuring instruments. In areas in which the provisions of Part V apply: (*a*) in general every weight, measure, weighing instrument, and measuring instrument must be verified and stamped with a mark of verification; (*b*) weights, measures, weighing instruments, and measuring instruments have to be re-verified and stamped every two years; (*c*) the use, or possession for use, for trade of any weight, measure, weighing instrument, or measuring instrument which is not stamped is prohibited.

Part VI of the Ordinance relates to offences and legal proceedings. In it power is also given to make regulations for carrying out or giving effect to the Ordinance.

Administration Employees' Compensation. — The Administration Employees' Compensation Ordinance, 1939 (No. 14 of 1939), provides for the payment of compensation as prescribed, if personal injury by accident arising out of and in the course of his employment is caused to an employee and where an employee is affected by or dies from prescribed diseases.

" Employee " means any person who is an officer in the Public Service of the Territory for the purposes of the Public Service Ordinance, 1922-1939, and includes: (*a*) the Administrator; (*b*) any Judge of the Supreme Court; (*c*) any person who is a member of the European Constabulary constituted under the Police Force Ordinance, 1930-1939; (*d*) any exempt officer as defined in the Public Service Ordinance, 1922-1939; (*e*) any person temporarily employed in the Public Service of the Territory; (*f*) any person who has entered into or works under a contract of service or apprenticeship with the Administration, whether by way of manual labour, clerical work, or otherwise, and whether the contract is express or implied, is oral or in writing, but does not include: (*g*) any person who is not substantially of European origin; or (*h*) an outworker.

The maximum compensation is fixed at £750 and medical expenses in respect of any one accident.

Public Service, Superannuation.— No. 16 amends the Superannuation Ordinance, 1928-1939, to make provision for the case of an officer transferred from the Territory Service to an office in the Commonwealth Service in pursuance of Section 43 of the Commonwealth Public Service Act, 1922-1937.

Public Service.—No. 17 makes minor amendments in the Public Service Ordinance, 1922-1939, and makes provision for officers transferred to the Commonwealth Public Service.

Chemists.—No. 19 provides for the registration of pharmaceutical chemists and the control of the practice of pharmacy. The Medical Board appointed under the Medical Ordinance, 1924-1939, is given control of pharmaceutical chemists.

Poisons.—No. 20 relates to the control, sale, and use of poisons, drugs, dangerous substances, and articles used in medicine or surgery.

Police Offences.—No. 21 amends the Police Offences Ordinances, 1925-1938, by introducing a provision prohibiting the carrying or having in custody or possession of: (*a*) any machine gun or submachine gun; (*b*) any weapon of whatever description designed or adapted for the discharge of any noxious or stupefying liquid, gas, or other thing ; (*c*) any apparatus capable of being attached to a firearm so that the noise of the firing of the firearm is silenced or reduced; or (*d*) any apparatus capable of being attached to a firearm so that the firearm is converted to a machine gun or a submachine gun, except in prescribed cases or with the prescribed consent.

Mining.—No. 23 amends the Mining Ordinance, 1928-1936, by making provision for the refund of the royalty payable on gold won in the Territory in certain cases. Provision is made under the Mining Ordinance, 1928-1936, for the payment of a royalty of five per centum of the actual price received for gold. The new Section 63A provides for the refund of the whole or portion of the royalty paid in certain cases. Where the total royalty paid during a half-year by any person exclusively engaged in mining during that half-year, does not amount to £30 (the sum payable as royalty on gold the value of which is £600), the Administrator is required: (*a*) if the royalty paid does not exceed £15 (the sum payable as royalty on gold the value of which is £300), to refund the whole of the royalty paid; or (*b*) if the royalty paid exceeds £15 but does not amount to £30, to refund a portion of the royalty as provided by paragraph (*b*) of the new section.

Land.—No. 25 adds to the Land Ordinance, 1922-1939, a provision

to provide for the renewal of, or the grant of a new lease in place of, a lease granted by the Fiscus of the Colony of German New Guinea, or by the German Imperial Government, or by the former German Government of the Territory, or by any organ or officer of either of those Governments, or by the British Military Administration.

Native Labour.—No. 27 makes drafting amendments in the Native Labour Ordinance, 1935-1938, for the purpose of clarifying the provisions relating to deserters.

IV. NEW ZEALAND.

[*Contributed by* J. CHRISTIE, ESQ., C.M.G., LL.M., *Counsel to the Law Drafting Office.*]

Introductory.—This Review deals with the forty-three public Acts passed during the first session of the present Parliament prior to its adjournment on October 6, 1939, until February 8, 1940 (with power to meet earlier if the necessity should arise). There were also twelve local and personal and one private Act.

The Emergency Regulations Act and the War Expenses Act arise directly from the war; other legislation (notably the Reserve Bank Amendment and the Marketing Amendment) is coloured by the war. Special provisions relating to war conditions are also to be found in the Finance Acts; these will be adverted to when those Acts are dealt with in the course of this Review.

The most important and contentious of the Acts passed are those which implement the policy of the Government in relation to the control of finance and the regulation of industry. In this category are the Reserve Bank Amendment, the Marketing Amendment, and the Customs Amendment.

Industrial Arbitration.—The Industrial Conciliation and Arbitration Amendment Act (1939, No. 2) empowers the Minister of Labour, in certain circumstances, to cancel the registration of industrial unions[1] (whether of employers or of workers) and also to cancel awards and industrial agreements affecting such unions and their members. The result of cancellation would be nominal freedom of contract between employers and workers. The purpose of the amendment is to discourage strikes and lockouts.

Finance.—Part I of Act No. 3 authorizes the Minister of Finance to borrow (*a*) £15,000,000 for public works; (*b*) £3,200,000 for main highways; (*c*) £3,500,000 for housing; (*d*) £1,000,000 for electric-power works. Part I also contains an exemption from local taxation (*e.g.*, land-tax, income-tax, sales tax, Customs duties, Social Security Contribution) of the United Kingdom High Commissioner in New Zealand and the members of his official staff. A corollary of this exemption is contained in the Customs Laws Amendment Act, which exempts the accredited representatives of other countries from Customs duties and sales tax.

Part II amends the Land and Income Tax Act, 1923; the amendments, though of local importance, do not call for special mention here. Other amendments of the Land and Income Tax Act were made later in the session by the Land and Income Tax Amendment Act (No. 34). (*infra.*)

Part III increases the rates of estate duty, succession duties, and

[1] Not to be confused with Trade Unions.

gift duty. These rates were further increased (for war purposes) by the War Expenses Act (1939, No. 29).

Real Property.—The Property Law Amendment Act (1939, No. 6) practically adopts the provisions of Sections 92 and 101 of the Law of Property Act, 1925 (Imperial), dealing respectively with: (*a*) the power of the Court to authorize a mortgagee to deal separately with land and minerals; (*b*) the power of a mortgagee in possession to cut and sell timber ripe for cutting and (*c*) certain powers incident to a mortgagee's power of sale. In addition to the provisions referred to above, provision is made whereby a mortgagee is debarred from selling or entering into possession of any mortgaged property unless he has given specific notice to his mortgagor of the time within which a default complained of can be remedied, and the mortgagor has not remedied the default within that time. (A provision to the same effect, but of limited application, is to be found in the Mortgagors and Lessees Rehabilitation Act of 1937.) Another Act dealing with real property is the Land Transfer Amendment Act (1939, No. 7), which makes various amendments of practical importance in the Land Transfer Act, 1915. The most important of these amendments deal with (*a*) the extension of leases by means of a memorandum of extension; (*b*) the bringing down (subject to certain conditions) of incumbrances where a new lease is in renewal or in substitution of a prior lease; (*c*) the variation (by registered memorandum) of the priority of registered incumbrances. A non-technical provision of more general interest (providing for the preservation of documents of historical interest) is contained in Section 14, which authorizes the transfer to certain approved libraries or museums of documents which by former legislation the Registrar-General of Land has authority to destroy.

War.—The Emergency Regulations Act (No. 8) is the first war measure to be passed in relation to the present war. It is on the lines of similar legislation passed by the Parliament of the United Kingdom, and enables the Governor-General to make all such regulations as may be required for securing the public safety, the defence of New Zealand, the maintenance of public order, the efficient prosecution of any war in which His Majesty may be engaged, the maintenance of supplies and services essential to the life of the community, and generally for safeguarding the interests and maintaining and promoting the welfare of the community. Offenders against the regulations are made liable "to such punishment as is prescribed in that behalf by the regulations"; where no penalty is so prescribed the maximum penalty is fixed at a fine of £100, or imprisonment for three months; or to both such fine and imprisonment.

Transport.—The Transport Amendment Act (No. 9) amends (*a*) the Motor-vehicles Act, 1924; and (*b*) the Transport Licensing Amendment Act, 1931. Provisions of general interest are those that deal with the problem of intoxicated drivers. They provide for (1) The compulsory cancellation of drivers' licences, and the compulsory disqualification (for not less than one year in the case of first offenders and not less than three years in other cases) of persons convicted of driving offences while in a state of intoxication; (2) the publication in every case of the names of convicted persons; and (3) the arrest without warrant of offenders, either by officers of police or by Traffic Inspectors. It is also made an offence for any person, while in a motor omnibus or a public motor car, to "take" any intoxicant or to offer an intoxicant to the driver or any other person.

Summary Penalties.—The Summary Penalties Act (No. 11) is in effect an amendment of the Justices of the Peace Act, 1927, and initiates several minor reforms relating to summary proceedings for offences, principally with a view to mitigating the severity of the law. Noteworthy provisions are those which adopt, in effect, the provisions of Sections 1 and 5 of the Criminal Justice Administration Act, 1914 (4 & 5 Geo. V, c. 5) and Sections 1, 5, and 6 of the Money Payments (Justices Procedure) Act, 1935 (25 and 26 Geo. V, c. 46).

Legitimation.—The Legitimation Act (1939, No. 12) repeals the former law as to the legitimation of children and re-enacts it with an important amendment. Under the older law, legitimation was not complete until on application of the father (or in certain circumstances by the mother), supported by a statutory declaration, the birth of the child was re-registered. Under the new Act legitimation automatically follows the marriage of the parents, and operates as from the date of birth; re-registration (though still required) becomes a matter of machinery only. The Act is retrospective in its operation. The original Act was silent on the matter of the domicile of the parents at the time of marriage or of the birth of the child. The new Act is expressed to apply " whether or not the illegitimate child was living at the date of the marriage and whether or not his parents were domiciled in New Zealand at the time of their marriage or at the time of his birth." The Act is silent on the matter of the place of birth, but during the progress of the Bill a Ministerial statement was made that " The Act will apply to all persons subject to the law of New Zealand, whether or not the birth or marriage occurred in New Zealand." Distributions of property completed before marriage are not disturbed by the Act.

Domestic Proceedings.—The Domestic Proceedings Act (No. 13) is expressed to be an amendment of the Destitute Persons Act, 1910. It adopts, in principle, the provisions of the Summary Procedure (Domestic Proceedings Act, 1937 (I Edw. VIII and I Geo. VI, c. 58) (providing, *inter alia,* for the appointment in matrimonial cases of a conciliator to attempt to effect a conciliation between husband and wife).

Hire Purchase Agreements.—On p. 111 of the *Journal of Comparative Legislation,* Third Series, Vol. xxi, Part i, there is a forecast of legislation to protect purchasers under hire-purchase agreements from harsh and unconscionable proceedings by vendors. This forecast is fulfilled in the Hire-purchase Agreements Act (1939, No. 14), Section 3 of which provides that " Where a vendor takes possession of any goods comprised in a hire-purchase agreement, the purchaser shall be entitled to recover from that vendor as a debt due and payable by him to the purchaser the total amount of the moneys paid and the value of any other consideration provided by the purchaser under the agreement in respect of the goods, less the difference between the purchase-price of the goods and the value of the goods at the time when the vendor so takes possession thereof."

Section 4 provides that " Where a vendor takes possession of any goods comprised in a hire-purchase agreement he shall not be entitled to recover under the provisions of the agreement any sum which, together with the value of the goods at the time when the vendor so takes possession thereof and the moneys paid and other consideration provided under the agreement by the purchaser and by any other person on his behalf, would amount to more than the purchase-price of the goods."

The Sections quoted are the essential provisions of the Act, and the remaining provisions are subsidiary and supplemental.

Slaughter of Stock and Inspection of Meat.—The Meat Act (1939, No. 19) repeals the former law as to the establishment of municipal abattoirs and other places for the slaughter of stock, the inspection of meat intended for human consumption, and the export of meat from New Zealand, and re-enacts the provisions of the former Acts, with substantial amendments. The former law was defective and uncertain in many respects, and the new Act is a reconstruction, rather than a consolidation, although it makes no essential changes in principle.

Nursing Aids.—One result of the high standard set for the training of nurses in New Zealand has been the difficulty of maintaining the supply of fully-trained nurses. This difficulty has been accentuated by the operation of the Social Security Act, 1938, in providing "hospital benefits." To meet this difficulty the Nurses and Midwives Registration Amendment Act (1939, No. 20) makes provision for the training and registration of so-called "nursing aids." The essential difference between the training of a nurse and of a nursing aid is a matter of time only; whereas a nurse must have three years' training in an approved training-school, a "nursing aid" may qualify after two years' training. A nursing aid, who, after registration as such, seeks the higher qualification of a nurse, will receive credit for the training she has already received (her minimum period of training in a nurses' training school being reduced from three years to two years and three months).

Patents, Designs and Trade-Marks.—The Patents, Designs, and Trade-marks Amendment Act (1939, No. 26) brings the law of New Zealand into conformity with the law of the United Kingdom. The new Act adopts, in effect, the provisions of the following Imperial Acts, viz.: The Patents and Designs Act, 1932 (22 & 23 Geo. V, s. 32); The Patents, etc. (International Conventions) Act, 1938 (1 & 2 Geo. VI, c. 29); The Trade-marks Act, 1938 (1 & 2 Geo. VI, c. 22).

Wages Protection and Contractors' Liens.—There is nothing new in principle in the Wages Protection and Contractors' Liens Act, 1939 (No. 27) which repeals and re-enacts in a simpler form legislation that has been on the Statute Book for over 40 years. The new Act is divided into two main Parts, the first being entitled "Wages Protection and Truck"; the other "Contractors' and Workers' Liens and Charges."

Part I requires that wages shall be paid in money (including open cheque) and protects wages, up to £2 a week, from attachment or charge. The essential provisions of Part II are contained in subsections (1) and (2) of Section 21, which provide as follows:—

"Where any employer contracts with or employs any person for the performance of any work upon or in respect of any land or chattel, the contractor and every subcontractor or worker employed to do any part of the work shall be entitled to a lien upon the estate or interest of the employer in the land or chattel, and every subcontractor or worker employed by the contractor or by any subcontractor to do any part of the work shall be entitled to a charge on the moneys payable to the contractor or subcontractor by whom he is employed, or to any superior contractor, under his contract or subcontract.

"The lien or charge of the contractor or of a subcontractor shall be deemed to secure the payment in accordance with his contract or subcontract of all moneys that are payable or are to become payable to him under the contract or subcontract. The lien or charge of a worker shall be deemed to secure the payment in accordance with the terms of his

employment of all moneys that are payable or are to become payable to him for his work."

The remaining provisions of Part II are for the purpose of securing the rights conferred by Section 21.

War Expenses.—The War Expenses Act (No. 29) establishes a " War Expenses Account " and provides for payment out of that Account, without further reference to Parliament, of moneys expended " for defence purposes, or for any purpose connected directly or indirectly with any war in which His Majesty may now or at any time hereafter be engaged, whether arising during or after the war." For the purpose of financing the Account, the Minister of Finance is empowered to borrow £10,000,000; in addition, special taxation has been imposed by way of income-tax, death duties, gift duty, Customs and Excise duties, gold-export duty, and postal charges.

Customs Duties.—The Customs Amendment Act (1939, No. 30) contains certain provisions related expressly to the war, and for the purposes of the War Expenses Account increases the rates of Customs duties on, *inter alia,* motor spirits and tobacco (in all its forms) and the rates of Excise duty on beer and tobacco; it also imposes a special duty on exported gold.

Its most important provisions, however, are those that deal with the control by the Government of the import and export of commodities. The Import Control Regulations, 1938 (purporting to be made under the authority of the Customs Act, and the Reserve Bank Act) prohibited the importation into New Zealand of any goods whatsoever except under the authority of a licence; these regulations were held by the Supreme Court to be *ultra vires*. The regulations have now been specifically validated, and the general powers have been defined and extended to cover the deficiencies of the law as revealed by the judgment of the Court.

Social Security.—The Social Security Amendment Act (1939, No. 31) amends the principal Act (passed in 1938) in several particulars. The only amendments of general interest are those dealing with medical services in relation to maternity. Under the original Act, doctors prepared to work under the Government's scheme were invited to enter into contracts with the Minister of Health to provide necessary medical services to women entitled to receive maternity benefits. The medical profession as a body was opposed to the scheme, and, in consequence, it failed to operate effectively. Under the amending Act the procedure is reversed. It provides for the fixation of a scale of fees (by conference between the Government and representatives of the doctors). The fees so fixed are made payable to the doctors concerned out of the Social Security Fund unless, in any case, the doctor has withdrawn from the scheme. A doctor who has not withdrawn from the scheme has no claim against his patient for professional services covered by the scale of fees.

Rural Housing.—The Rural Housing Act (No. 32) empowers local bodies (with the prior consent of the State Advances Corporation) to make loans to assist in the erection of farmers' and farm-labourers' dwellings. The State Advances Corporation is empowered to finance local bodies (out of its Housing Account) to enable them to make loans under the Act.

Pharmaceutical Chemists.—The Pharmacy Act (No. 33) repeals the Pharmacy Act, 1908, and its amendments, and re-enacts their provisions with substantial alterations. A large part of the new Act is of a domestic nature (dealing with the registration and discipline of pharmaceutical

chemists by an elected Board presided over by an appointed Chairman, who must be a barrister of the Supreme Court).

Of more general interest are the provisions that regulate the sale of drugs. The Act specifies a list of drugs the sale of which by persons other than pharmaceutical chemists is permitted; it also specifies a list of preparations, under generic descriptions, that may be sold (*e.g.*, disinfectants, agricultural and horticultural preparations, photographic chemicals). In this connexion there is a real difficulty in respect of so-called " proprietary " medicines. The provisions with respect to proprietary medicines are, speaking generally, to the effect that they may be sold otherwise than by pharmaceutical chemists unless, in the case of any such preparation, its sale is restricted to pharmaceutical chemists by order of the Minister of Industries and Commerce. The interest in the matter of this Minister (rather than the Minister of Health, by whom the rest of the Act is administered) is due to the fact that the business of pharmaceutical chemists is the subject-matter of a " plan " under the Industrial Efficiency Act, 1936. (See *Journal of Comparative Legislation*, Vol. xx, Part ii, p. 114.)

Land and Income Tax.—The Land and Income Tax Amendment Act (No. 34) is a measure of considerable local importance, designed, on the whole, to increase the public revenue by preventing the evasion of tax by what may hitherto have been regarded as legitimate means. While it is difficult to select any sections for particular comment, mention may be made of Sections 6, 13, 14, 23, 24, 25, and 32.

Section 6 enables the Commissioner of Taxes to assess income-tax for any year at the rate fixed for the current year (1939-40), and to make any necessary adjustments after the rates for the particular year have been fixed. The purpose of the provision is to avoid an undue accumulation of work in the Commissioner's office.

Section 13 provides, in effect, for the aggregation of the incomes of husbands and wives, for the purpose of fixing the *rate* of tax payable in any case by a husband or wife.

Section 14 makes income derived from farming operations assessable for income-tax. There has of recent years been a considerable variation of policy as to the direct taxation of farmers' incomes.

Sections 23 and 24 deal with " proprietary companies," which are defined as companies that are under the control of not more than four persons. Under the former law it was possible for persons who are, in effect, partners to form private companies and thereby divide the income derived by them into two or more portions and so secure a lower rate of tax. The general scheme of Section 23 is that the income derived by a proprietary company is deemed to be income derived by the shareholders, and for assessment purposes is added to the income of the shareholders; credit is given to the shareholder in respect of the tax paid by the company on that proportion of the company's income which attaches to the shareholder. The Section disposes of a method of tax avoidance which has become notorious; however, it does not prevent traders from obtaining every advantage which may legitimately be obtained by them through incorporation under the procedure established by the Companies Act.

Private companies sometimes pay to Directors or to the wives or relatives of directors or shareholders sums in excess of the value of the services rendered by these persons to the company. The effect of such

payments is to reduce the total income of the company and so reduce the rate of tax payable by it, the shareholders and relatives receiving what is in substance the income of the company and being taxed on it at a comparatively low rate. Section 24 enables the Commissioner to disallow such portion of the payments to the directors, shareholders, or relatives as he considers is in excess of the value of the services rendered.

Section 25 enables the Commissioner to make an arbitrary assessment of companies controlled, in effect, by overseas interests.

Section 32 enables a taxpayer who uses land for the purpose of producing assessable income to claim any land-tax payable by him on that land as an expense item (in the same way as he can claim a deduction for local rates paid on that land).

Visiting Forces.—The Visiting Forces Act (No. 36) is an adaptation of the Visiting Forces (British Commonwealth) Act passed by the Parliament of the United Kingdom in 1933. The commencement of the Act has been postponed until a date to be fixed by the Governor-General by Proclamation.

Finance.—The 51 Sections of Act No. 38 contain little of general interest. By Section 2 the Minister of Finance is authorized, on behalf of His Majesty's Government in New Zealand, to enter into agreements with the Governments of the United Kingdom and of the Commonwealth of Australia with respect to the Tasman Air Service (to operate between New Zealand and Australia), and to acquire shares in any company formed to carry on such service.

Section 10 (following a precedent of the last war) grants certain special exemptions from death duties in the case of the estates of deceased members of the Military, Naval, or Air Forces.

Part II extends the application of the War Pensions Act, 1915, and its amendments so as to make general provision for the payment of pensions in respect of the death or disablement, in the course of their duties, of members of the Army, Naval Forces, or Air Force.

Part III makes various amendments to the National Provident Fund Act[1] (originally passed in 1910 and re-enacted in 1926), which provides for a system of contributory pensions, and is made use of by local authorities and other employers as a convenient method of providing superannuation benefits for their employees. An interesting provision (and one that could be extended with advantage to contributors to other funds) is that which permits contributors to accept reduced pensions in consideration for increased benefits to widows.

Statutes Amendment.—The Statutes Amendment Act (No. 39) contains 70 Sections and amends over 40 different statutes. Few of the amending Sections are of interest outside New Zealand.

Section 22 is an exception in that it extends to intestacies the provisions of Part II of the Family Protection Act, 1908, and enables the Supreme Court to alter the disposition of property on intestacy, as if the deceased had disposed of his property by will as on an intestacy. Another exception is to be found in Section 41, which repeals Section 2 of the Marriage Amendment Act, 1933 (which, following the provisions of Section 1 of the Age of Marriage Act, 1929 (U.K.), declared to be *void* any marriage to which either of the parties was under the age of 16 years. (*Journal*, Third Series, Vol. xvii, Part ii, p. 113.) The substituted provisions merely

[1]The effect on the National Provident Fund of the Social Security Act, 1938, is not yet apparent.

forbid the issue by a Registrar of a " certificate of marriage " (that is, an authority to marry) where either of the parties to the proposed marriage is under the age of 16 years; if, in fact, such a marriage takes place, it is not invalidated by the irregularity. Marriages rendered void by the 1933 Act are validated (except in cases where the marriage has been treated as void and the relationship of the parties cannot be restored).

Section 59 deals with the evil of drunkenness at public dances; it is made an offence for the Management to supply intoxicating liquor to its patrons, or for any person in attendance at or proceeding to a dance-hall to have intoxicating liquor in his possession, or for any person to drink intoxicating liquor in a dance-hall.

Marketing Department.—The Marketing Amendment Act (No. 40) extends the functions of the Marketing Department (established under the Primary Products Marketing Act, 1936), (see *Journal,* Vol. xx, Part ii, p. 108), by authorizing the Department to deal in and control the prices of any goods (whatever their nature).

Though the Act is not in terms a " war measure," the Minister in charge of the Bill is reported as having said: " The immediate origin of the present amendment to the Act is that the United Kingdom Government desired the New Zealand Government to act for it in buying the products that the United Kingdom requires during the war period." At a later stage in the debate on the Bill, he said: " The Government will, after the Bill has operated for a period following the war, bring it before the House again to enable it to decide whether it will be continued or not." A proposal to add a new clause to the Bill, to the effect that it should continue in force for the duration of the war and twelve months thereafter was defeated in Committee.

Reserve Bank.—The Reserve Bank of New Zealand Amendment Act (1939, No. 41) marks a further departure from the original policy of political independence, in accordance with which the Reserve Bank was established under the 1933 Act. (See *Journal,* Third Series, Vol. xvii, Part ii, p. 114.) In the course of his remarks on the Second Reading of the Bill, the Minister of Finance is reported to have said in the House of Representatives: " The Bill is entirely in accord with the declared policy of the Government to take control of credit and currency "; and later, in the course of the same speech: " This Bill is partly a war measure, and partly ordinary; it is partly ordinary in that it is correct to say that it would have been introduced had there been no war, but the circumstances of the war and the necessary steps that have had to be taken in connexion therewith render it more imperative that the control and responsibility in regard to currency and credit should be directly on the Government."

The amending Act contains 4 operative Sections, all of importance. Section 2 requires the Governor of the Bank and the Board of Directors to have regard to any representations that may be made by the Minister of Finance in respect of any functions or business of the Reserve Bank, and also requires them to give effect to any decision of the Government " conveyed to the Governor in writing by the Minister of Finance."

Section 14 of the principal Act (1933) absolutely prohibits the Bank from doing a number of things (*e.g.,* from making unsecured loans or advances). The things that were formerly absolutely prohibited may now be done with the authority of the Governor-General in Council.

By Section 17 of the 1933 Act the Bank was required to maintain a minimum reserve of not less than 25 per cent. of the aggregate of its

notes in circulation and other demand liabilities. By Section 4 of the amending Act the Minister of Finance is empowered to vary or to suspend this requirement.

Section 5 authorizes the Minister to revalue the gold coin and bullion of the Bank, by reference to the market value of fine gold. Any increase in the value of the gold, on revaluation, is directed to be held by the Bank on behalf of the Crown.

Legal Aid for Poor Persons.—The Legal Aid Act (No. 42) empowers the Governor-General to make regulations, providing, *inter alia*, for the provision of legal aid for " poor persons," in the matter of advice and the conduct of litigation. The present Act may be regarded as a corollary or supplement to the Poor Prisoners Defence Act, 1933. (See *Journal of Comparative Legislation*, Vol. xvii, Part ii, p. 120.)

Fair Rents.—The duration of the Fair Rents Act (1936, No. 14) which was passed as a temporary measure (to expire on September 30, 1937) has been further extended to September 30, 1940, by the Fair Rents Amendment Act, 1939 (No. 43). The amendment extends the application of the principal Act to " flats " and " apartments," and also attempts to deal with the related problem of excessive charges for " board and lodging." By Section 8 the Governor-General is empowered to make regulations " for the purpose of regulating charges in respect of residential accommodation in any premises with attendance or services." One wonders what kind of breakfast will be supplied by the boarding-house keeper whose charges are regulated by Order in Council.

V. WESTERN PACIFIC.

1. FIJI.

Twenty-eight Ordinances were passed during the year.

Sedition.—No. 4, which replaces the Sedition Ordinance of 1931, provides for the punishment of seditious acts and seditious libel, and also controls seditious publications and the importation of publications contrary to the public interest. It follows closely English legislation.

Trading with the Enemy.—No. 8 quickly followed the declaration of war and was passed on September 8 to impose penalties in the usual terms for trading with the enemy.

Public Health.—No. 14 gives additional powers to the Medical Officer of Health and enables him to enter premises where the owner has neglected to keep them clean and clear " from all bush weeds or long grass of such a nature as in the opinion of the Medical Officer of Health would be likely to harbour mosquitoes."

Telegrams.—No. 18 gives the Governor control of all telegraphic communications, including wireless, and so establishes a censorship.

Defence Force.—No. 20 authorizes the Governor to raise and maintain a force of volunteers for the naval defence of the colony within its territorial waters to be called The Fiji Naval Volunteer Force.

Family Provision.—No. 21 follows English legislation in enabling an application to be made to the court where the testator has not made provision for dependent relatives.

Motor Traffic.—The whole law relating to motor traffic is consolidated with amendments in No. 22, rendered necessary by the very considerable increase in the traffic and the construction of new roads.

Bicycles.—No. 23 requires the registration of bicycles.

Police.—Another consolidating ordinance is No. 24, which contains all the law relating to the organization, discipline, powers and duties of the police force. It follows in the main the Police Force Ordinance of 1937 of Tanganyika Territory.

Divorce.—No. 27 provides for divorce on grounds similar to those in English legislation, with one exception, namely, that there is no restriction upon the presentation of a petition for a divorce during the first three years of the marriage. It also enables the Supreme Court to pronounce a decree of nullity when at the time of marriage one of the parties was already married and the marriage was still subsisting, or the marriage was induced by duress or mistake, was within the prohibited degrees, or was not celebrated in due form.

Native Divorce.—Ordinance No. 26 applies to the divorce of native Fijians and Rotumans, and is based to a certain extent on the provisions of the Matrimonial Causes Act, 1937. The Court is empowered to receive and hear petitions and divorces and nullity of marriage where both parties to the marriage are natives domiciled in the Colony. A husband petitioner may claim damages from a co-respondent and provision is made for the payment of maintenance of the children. A fee of ten shillings is fixed to cover all the proceedings.

2. GILBERT AND ELLICE ISLANDS.

1938.

Eleven Ordinances were passed in the year.

Red Cross.—No. 9 put into operation the Geneva Convention of 1937 (Colonies) Order in Council restricting the use of the Red Cross for trade purposes.

Post Office.—No. 11 was a comprehensive Ordinance covering the regulation of post offices and the conveyance of mails, and it was supplemented by general regulations as well as special regulations dealing with money orders and postal orders.

1939.

In 1939 eight Ordinances were passed.

Lighting Control.—No. 2 provides for the total or partial cessation of lighting in the colony on occasions of emergency or public danger, or by way of experiment or practice for such occasions.

Trade Marks.—No. 3 provides for the registration in the colony of trade marks registered in the United Kingdom.

Trading with the Enemy.—The usual penalties are imposed by No. 6.

Wireless Telegraphy.—Wireless telegraphy is put under control by licence by No. 7.

3. BRITISH SOLOMON ISLANDS.

1938.

Red Cross.—No. 5 is a King's Regulation similar to the Gilbert and Ellice Islands Ordinance No. 9 of 1938.

1939.

Thirteen Regulations were made during the year.

Petroleum.—No. 3 related to the carriage and storage of petroleum.

Trade Marks.—No. 6, repealing previous Regulations, contains the requirements in reference to the registration of trade marks already registered in the United Kingdom.

Lighting.—On July 18 No. 7 made provisions for the total or partial cessation of lighting on occasions of emergency or public danger, or by way of experiment or practice for such occasions.

Defence Force.—No. 9 established a defence force for the protectorate on the usual lines.

Native Contracts.—Although by the middle of September the protectorate was concerned about the international situation, time was found to improve the legislation relating to the protection of natives in making contracts by requiring their registration under Regulation No. 10.

Trading with the Enemy.—No. 11 was a Regulation in the usual form dealing with trading with the enemy.

Customs.—An amending Regulation (No. 13) was devoted entirely to a provision "That where any search is made upon a female, it should be conducted by a female."

Seventeen Proclamations were issued during the year. Among them No. 11 deserves special mention. Owing to their comparative isolation and difficulty of access, the native inhabitants of Ongtong Java are not brought into contact to any appreciable extent with other parts of the protectorate, and in consequence they have not developed sufficient immunity from or resistance to diseases, mainly pulmonary, conveyed and disseminated amongst them by visiting ships. As a result of a steady decline in the population in recent years, medical surveys have been undertaken, and an analysis of the evidence collected by those surveys shows that the decline is directly due to epidemics introduced by visiting vessels. Accordingly, Proclamation No. 11 institutes a system of strict medical examination of every person proposing to visit the atoll by ship.

4. TONGA.

Three Ordinances were passed during the year, and included one to provide for the maintenance and regulation of a defence force.

5. NEW HEBRIDES.

Fourteen Regulations were jointly promulgated by the British Resident Commissioner and his colleague for the French Republic.

Infectious Diseases.—No. 2 enables a District Agent where he considers it desirable in the interest of health to issue an order directing the inhabitants of any village or dwelling on the island to cease residing therein and to take up residence which he may specify elsewhere. The District Agent is also given power to order the clearing of villages of refuse, and among the other requirements which he may propose for the improvement of health of the community is one compelling the owner of any native dwelling to provide suitable beds for any or all of the habitual inmates thereof.

Land Transfer.—No. 3 protects the land still remaining available for the natives on the island of Tonga from disposal.

Censorship.—No. 4 appoints censors and imposes a censorship, including the communications by radio. A further Regulation (No. 10) also deals with the control of radio communications. No. 13 contains the provisions in reference to the appointment of censors.

Commodities.—In order to ensure the supply of essential commodities, No. 6 provides for the registration of all stores and the regulation of their importation and exportation.

Aliens.—No. 7 requires all aliens to obtain a British or French visa.

VI. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* A. A. Schoch, LL.D., K.C., *Senior Government Law Adviser.*]

In 1939 the Parliament of the Union held two sessions—one an ordinary session, in which forty-one Acts were passed, and the other an emergency session, in which only one Act was passed. Of the forty-two Acts, eleven are annually recurrent financial measures, and fifteen are Acts to effect various alterations in existing Acts. The Acts containing provisions of general interest are the following:

Gambling (No. 5).—In view of the alarming increase in so-called "pin-tables" and other similar gambling machines, hailing mostly from America, and in gambling schemes, such as the so-called "football pools," which were found to have a pernicious effect upon a large section of the public, and more particularly upon juveniles, this short Act was passed to empower the Minister of Justice to apply, by a notice in the *Government Gazette*, the prohibition of the lottery laws to any specified kind of pin-table, machine or contrivance or to any game or scheme of a specified type, except to a totalisator lawfully conducted in connexion with racing or to a pin-table, machine or contrivance or to a game or scheme in which the obtaining of a prize does not depend upon chance.

Native Administration (No. 9).—This is a short Act amending the Native Administration Act, 1927, so as to empower the Governor-General to prohibit or restrict by regulation the sale of goods on credit or the lending of money to native labourers on mines or certain works, and to prohibit or restrict certain acts intended to facilitate the collection of money owing by such labourers. This measure was found necessary because of the reprehensible practice of traders near certain small mines of inducing unsophisticated native labourers on those mines to buy many useless articles on credit and then to obtain payment out of the natives' wages with the assistance of the employers of the natives.

Control of Wrestling (No. 10).—In 1923 boxing contests were, by the Boxing Act, placed under the control of certain Boards authorized by the Commissioner of Police to control boxing under that Act. Act No. 10 of 1939 applies all the provisions of the Boxing Act, 1923, to wrestling contests.

Commissioners of Oaths.—Act No. 14 amends the Justices of the Peace and Oaths Act, 1914, in certain respects and empowers certain officials of the Government of the Union and commissioners appointed for the purpose by a Division of the Supreme Court of South Africa, who are stationed abroad, to attest affidavits for use in the Union.

Cannon Island Settlement (No. 15).—There is an island, called Cannon Island, in the Orange River which is inhabited by a number of persons who farm in a small way. The Act in question provides for the election by those farmers of a Board consisting of five members upon whom the Act confers extensive powers to regulate the irrigation of land on the island and to protect that land against floods. The Board may also levy rates, make rules for the proper management of the island, and in case of emergency it can call upon the islanders to render personal service to protect the island against floods.

South-West Africa Police (No. 19).—Before this Act was passed the Administration of the mandated territory of South-West Africa had its own police force, the cost of which it defrayed out of its own revenues. The Act in question provides for the incorporation of that police force in the police force of the Union and extends the activities of the latter force to the said territory. As the Administration of that territory was thereby relieved of the expense of maintaining a police force, the Act prescribes the payment of £114,000 per annum from the revenue fund of the said territory into the consolidated revenue fund of the Union.

Wiring of Buildings for Electrical Current.—Act No. 20 established the Electrical Wiremen's Registration Board, consisting of the chief Government inspector of factories, a municipal electrical engineer, a person selected by the Minister of Labour, a representative of electrical wiring contractors and two representatives of electrical wiremen. The Board must keep a register of electrical wiremen and on application enrol thereon persons who have the prescribed qualifications, and it may hold qualifying examinations and lay down what diplomas or certificates issued by other authorities shall qualify the holder for enrolment. There are elaborate provisions for suspension or cancellation of the registration of wiremen on various grounds. As it was not practicable to apply the drastic restrictive provisions of the Act in country districts and villages where it might be difficult to obtain sufficient qualified wiremen, those provisions apply only in areas defined by the Minister of Labour. When an area has been so defined by the said Minister for the purposes of the Act, no person other than a registered wireman, or other than a learner or apprentice or assistant acting under the supervision of a registered wireman, may wire a building, whether for himself or for another person. Moreover, in such an area a supplier of electricity (generally a municipality or the Electricity Supply Commission) may not connect up a building with his source of supply before he has examined and tested the wiring and fittings in the building. If the wiring or fittings are faulty, the supplier may report the wireman concerned to the above-mentioned Board, with a view to the suspension or cancellation of his registration, and the supplier may even debar the wireman from doing further wiring work pending an investigation by the Board. But if the Board does not uphold the supplier's action, the supplier must compensate the wireman. The Act contains numerous sanctions to enforce its provisions, and creates various presumptions to facilitate the proof of alleged contraventions.

Jurisdiction in Matrimonial Causes.—Before Act No. 22 was passed a wife living apart from her husband had to sue her husband in the competent Court within whose area of jurisdiction the husband lived. This Act confers upon a division of the Supreme Court within whose area of jurisdiction a wife has lived for a year, jurisdiction to entertain an action brought by her for divorce or for restitution of conjugal rights if the husband is domiciled in the Union, or for judicial separation if he is domiciled or resident in the Union.

Companies.—Act No. 23 consists of 119 sections and three schedules which amend very extensively the Companies Act of 1926. A large number of the amendments relate to mere details, but some are very far-reaching. The most important are the following:

It is sometimes difficult to determine whether an association of persons is or is not a *persona juris* at common law. This difficulty has now been

removed in regard to future associations by a new section which provides that no association formed after December 31, 1939, shall be a corporate body unless it is registered as a company or is formed under some other law or by letters patent or royal charter. Formerly an association could be registered as a company without the addition of the word " limited " to its name only if, *inter alia*, it was formed to promote commerce, art, science, religion, charity, or some other non-political public interest. This requirement has been removed, and any association formed for any lawful purpose can now be so registered if the Minister of Justice is satisfied that it is desirable to incorporate the association, and of course if it complies with the other unaltered requirements relating to the registration of such non-dividend-paying associations. The minute books of every meeting of the company are made available to every member, and a member is entitled, on payment of a small fee, to obtain from the company a copy of the minutes. Various disqualifications have been created which debar the person concerned from becoming a director of a company. At every directors' meeting every director must enter his name in a book to be kept for the purpose. Every company must keep a register of its directors, showing in respect of each director his name and every other name which he may have borne previously, and the name and address of every other company of which he may be a director, manager or secretary. Letters, circulars, catalogues and show-cards issued by a company must (unless the company has been exempted by the Minister of Justice) bear the name of every director and any other name which he may have borne previously, and his nationality if he is not a British subject. There are various provisions to enable the members of a company to ascertain the payments which the directors of the company have received from the company, or to prevent a director from deriving improper advantage from his directorship, or from evading certain liabilities, or to prevent misleading statements in prospectuses. There are elaborate provisions to restrict the sale of shares in companies otherwise than through a broker, with a view to preventing fraudulent share-pushing. There are also various restrictions in connexion with prospectuses, the allotment of shares, the use to which the funds of a company may be put, and the issuing of shares at a discount. A company must keep certain accounts, prescribed in detail, and lay these before the members. The amending Act contains various provisions in regard to the appointment and removal of a company's auditor ; the disqualifications for appointment to the office of auditor and the powers and duties of such an auditor ; the reconstruction or amalgamation of companies ; the conversion of private companies into public companies ; the winding-up of companies and the appointment of liquidators ; the disqualifications for appointment as liquidators ; the powers of the Master of the Supreme Court in relation to liquidators ; the powers of the Court to debar any person, for a specified period, from taking part in the management of any company if he committed any fraud in connexion with any company in liquidation, and to make a director personally liable for all the debts of a company in liquidation if any business of the company was carried on with intent to defraud its creditors ; the purposes for which moneys of a company which is under judicial management may be used ; the issuing of prospectuses offering shares in or debentures of foreign companies, and the facts which must be mentioned therein ; the destruction or falsification of the books of a company ; the publication of false

statements relating to the property or affairs of a company; and the liability of a promotor, director or prospective director for any false statement in a prospectus. And lastly, the Act under consideration amends the Criminal Procedure and Evidence Act, 1917, so as to facilitate the prosecution of a corporate body which is deemed to have committed an offence, and imposes upon a director or servant of a corporate body personal criminal liability for any offence in respect whereof the corporate body can be prosecuted, unless he proves that he could not have prevented the commission of the offence.

Native Taxation.—Act No. 25 amends in various respects the Natives Taxation and Development Act, 1925. Its main provision empowers a native commissioner to refrain from applying the criminal sanctions of the last-mentioned Act to a tax defaulter who admits his liability, and to assist him in finding employment, and in that case the employer of the defaulter must periodically pay over a specified part of the defaulter's wages to the commissioner, in reduction of the tax due. If the defaulter loses his employment through his own fault, the said criminal sanctions can again be applied to him.

Registration of Aliens.—Act No. 26 provides for the compulsory registration of all aliens. On registration an alien receives a registration certificate, which must be renewed after three years. When an alien changes his residential address, he must notify the registration officer of the district in question. A person who conducts an hotel or a boarding-house or who lets lodgings or sleeping accommodation must notify the registration officer concerned whenever he lets a room to a person who is or is suspected to be an alien, and any person who employs an alien for a period of more than seven days must also notify a registration officer.

An alien who has contravened any provision of the Act may be deported, and may be detained pending deportation. Diplomatic agents, consuls and their families and employees, juveniles under the age of sixteen years, and women married to aliens but who reside permanently in the Union and who were British subjects at the time of their marriage, are exempted from the requirements of the Act, and the Minister of the Interior may exempt any alien or class of alien either absolutely or conditionally.

Asiatics in Transvaal.—There are several statutes—both pre-Union and post-Union—which restrict the rights of Asiatics to own land or to occupy certain land in the Transvaal. These statutes have for decades been evaded successfully on a large scale, and in order to enforce compliance with those statutes, Act 28 of 1939 was passed to prohibit the issue of a trading licence or of a business removal certificate or the letting of certain land to an Asiatic, except on a permit issued on the authority of the Minister of the Interior, who will not cause such a certificate to be issued unless the Asiatic concerned is entitled to occupy the premises in question.

Co-operative Societies.—Act No. 29 supersedes the Co-operative Societies Act, 1922, as amended from time to time. The new Act effects numerous minor improvements in the prior Act, but it introduces few entirely new principles. The most important innovations are:

The creation of a new type of co-operative company with limited liability, called the Farmers' Special Co-operative Company (and a corresponding new type of Central Co-operative Company and Federal Co-operative Company, each formed by groups of the first-mentioned kind

of company). Such a company may deal with non-members, and persons other than farmers may, with the approval of the Minister of Agriculture and Forestry, become members of such a company. The object of the establishment of this type of company is twofold, viz.:

(*a*) to enable the company to buy products from non-members when members cannot supply them, in order that the company may keep its organization going, fulfil its contracts and retain its customers;

(*b*) to enable certain associations which cannot be classed as *bona fide* farmers to become members of such a company.

Provision is made for the conversion of an existing co-operative company into such a farmers' special co-operative company.

The creation of a new form of liability which the members of a co-operative company with limited liability may undertake as security for the repayment of a loan in favour of the company, in order to keep down the cost of such a loan.

Provisions for the issue of debentures by co-operative companies or societies, to enable them to obtain loans from their members on the security of certain assets of the borrowing company or society.

A change in and amplification of the procedure of winding up of co-operative companies or societies.

The creation of a legal hypothec in favour of a co-operative agricultural society or company over certain produce belonging to a member of such a society or company, as security for the payment of certain debts owing by such a member to that society or company, and the retention by such a society or company of the ownership of seeds, fertilizers, bags or disinfectants supplied by it on credit to a member, until the member has paid the purchase price thereof.

Shops and Offices.—Act No. 41 provides for the regulation of hours of work in shops and in certain offices. In regard to offices and persons employed therein, the Act applies only in certain areas defined by the Minister of Labour by notice in the *Government Gazette*, and in such an area only the provisions of the Act specified by the Minister in the said notice apply. Before so applying the Act in a defined area, the Minister must publish a notice of his intention so to apply the Act and give interested persons an opportunity to protest against the proposed action or to suggest modifications. Apart from this limitation of the application of the Act, it provides for various exceptions in relation to persons employed by the State, by farmers, in hotels or boarding-houses, by bakers, etc., or whose hours of work are regulated under the Industrial Conciliation Act, 1937, or the Wage Act, 1937. The Act limits work to forty-six hours per week and eight hours per day at normal pay and prescribes an increase of normal pay by one-quarter for overtime work. It also prescribes fourteen days' leave of absence on full pay per year, the keeping by employers of certain records, the provision of seats for the use of employees in shops, and the posting of certain notices in shops and offices. The Act prohibits victimization of an employee because he gave certain information to the authorities or evidence in a court of law, or carried out instructions given by a person authorized to give them. It prohibits the employment in a shop of a woman within a period of four weeks before her expected confinement or within a period of eight weeks after her confinement, and it makes provision for the payment of an allowance from state funds to a woman during the discontinuance of her

work in a shop as a result of her pregnancy, and for the recovery of an amount not exceeding that allowance from the father of the child in question, if he is able but unwilling to pay for the maintenance of the child. The Act provides for the appointment of inspectors to carry out the Act and defines their powers and duties, and it empowers the Minister of Labour in any particular area to exempt any class of employer in relation to any class of employee, or to exempt any individual employee, wherever he may be, in relation to all his employees or in relation to a particular employee, from certain provisions of the Act.

Under Act 10 of 1913 the power to legislate in regard to the limitation of the hours of work of shop assistants was delegated to Provincial Councils. As many of the provisions of Act 41 of 1939 encroach upon that power, that Act withdraws that delegation and repeals a number of Ordinances passed by Provincial Councils by virtue of that delegation.

Term of Office of Senators.—Act No. 42. Under sections 24 and 25 of the South Africa Act, 1909, the term of office of certain Senators nominated by the Government was due to expire on September 18, 1939, and the term of office of certain elected Senators was due to expire on September 5, 1939. In view of the critical international situation in August 1939, it was expected that Parliament might have to meet during the several weeks which had to elapse between the occurrence of the vacancies in question and the nomination or election of new Senators to fill the vacancies. Parliament was therefore convened at the beginning of September 1939 to pass the Act under consideration, which extended the period of office of the said Senators to a date not later than March 5, 1940, to be fixed by the Governor-General by proclamation, and which provided for the nomination and election of new Senators, before the vacancies in question occurred, as if they had already occurred, so that there was in fact no vacancy at any time. This was the only Act passed during the special session of Parliament in which it was passed.

2. CAPE PROVINCE.

Nineteen Ordinances were passed between March 28 and June 19, and consisted mainly of minor amendments.

Compulsory Land Purchase.—No. 9 gave the Provincial Administration power to acquire land required for the purposes of education or any other purpose authorized by law, either by voluntary agreement or expropriation. The rights conferred by the Ordinance are specifically in addition to and not in substitution for any other rights which the Administrator may have by reason of any other law.

Nature Reserves.—No. 18 gives local authorities power to acquire, establish and maintain nature reserves. A "nature reserve" is defined to be "any area reserved, preserved and used for the propagation, protection and maintenance therein of wild animal life, wild vegetation, and objects of geological, ethnological, historic, or of other scientific interest, in the interests and to the benefit and for the enjoyment of the public in general."

3. NATAL.

Twenty Ordinances were passed during the year, and included four of a local character relating to particular cities.

Game Reserve.—The object of No. 6, which was amended by No. 17, was to provide for the construction of the Zululand Game Reserve and

Parks Board and the preservation of wild animal life, wild vegetation, and objects of geological, ethnological, or other scientific interest in the games reserves and parks.

Shop Hours.—No. 9 contains the law relating to the hours of opening and closing of shops, and consolidates five previous Ordinances dating from the year 1919.

Taxation.—No. 11 is an Ordinance making amendments in previous legislation, principally the Ordinance No. 17 of 1928, dealing with taxation upon personal incomes and companies.

Local Government Superannuation.—No. 12 was the longest Ordinance of the session and contains comprehensive provisions relating to the pensions and other financial benefits payable to persons employed by local authorities. It contains all the details, including the financial particulars of payments and benefits. The extent to which the operation of a measure of this kind is subjected to the supervision of the Provincial Council is exemplified by No. 13, which contains details of arrangements made with five individuals in respect to the terms of their pensions.

4. ORANGE FREE STATE.

Ten Ordinances received assent between March 29 and June 16. Three of them dealt with the finances of the Province.

Hospitals.—No. 3 gives the Administrator power to appoint a commission of inquiry into the working of a hospital, take it over and dissolve the governing body.

Motor Vehicles.—An Amendment, No. 5, of the Motor Vehicle Ordinance No. 18 of 1931 makes the Crown and persons in the service of the Crown liable to the provisions as a general principle. It gives the Administrator, however, authority by proclamation to exempt the Government of the Union of South Africa, or any Department thereof (including the Railways and Harbour Administration), either wholly or in respect of any specified class or classes of motor vehicles.

Local Government.—All officials in administrative, clerical, professional or technical posts by No. 6 must have " an adequate knowledge of both official languages " unless there are " exceptional circumstances " and a suitable bilingual candidate is not available.

5. TRANSVAAL.

Seventeen Ordinances were passed during the year 1939. They consisted mainly of small amendments with the exception of No. 17, which was a long consolidating Ordinance repealing twelve previous Ordinances and containing the whole law relating to municipal government.

6. NORTHERN RHODESIA.

1938.

Fifty-three Ordinances were passed in the session which began on May 31, 1938, and two which received the Royal Assent on January 6, 1939, were included in the year.

Public Records.—No. 3 gives power to the High Court to make rules for the disposal of records.

Money-lending.—No. 11 is a comprehensive Ordinance dealing with the business of money-lending and laying down the conditions for licences to be taken out by moneylenders.

Debtors.—No. 12 limits the circumstances under which any person can be arrested or imprisoned for making default in the payment of a sum of money.

Defence Force.—A European reserve force is established by No. 20 in connexion with the Northern Rhodesia Regiment.

Court of Appeal.—The establishment conjointly with the Colony of Southern Rhodesia of a Court of Appeal is enacted by No. 35 for the purpose of hearing appeals from the High Court of the two Colonies. The Court will also act as a court of criminal appeal. Power is included in the Ordinance for the Government of Nyasaland to notify that it desires to recognize the Rhodesia Court of Appeal as a court of appeal to hear appeals from the High Court of that protectorate.

Native Tax.—The whole law on the subject of taxation of natives is incorporated with amendments in No. 36.

Notification of Births.—No. 43 is similar to English legislation in requiring the notification of births of children of Africans within the Colony.

Seditious Publications.—The importation of seditious publications is dealt with by an amendment of the Penal Code by No. 48.

Estate Duty.—Estate duty is introduced in the Colony by No. 51, which constitutes a body of Estate Duty Commissioners and lays down the rate of duty chargeable and the property upon which it becomes due.

Inquests.—The subject of inquests is dealt with in No. 52, and gives to every resident magistrate and administrative officer authority to hold an inquest. In the case of enquiries into deaths from accidents in mines, factories or workshops there is a provision that any person appointed by the order in writing by the majority of the workpeople employed at the mine, factory or workshop, or any person similarly appointed by the majority of the non-native and the native workpeople respectively, in cases where the workpeople so require separate representation, shall be at liberty to attend and examine any witness either in person or by his counsel, subject to the order of the coroner.

1939.

Thirty-one Ordinances were passed during the year.

Defence Force.—No. 1 deals with the constitution of a volunteer defence force.

Education.—The management of African education is the subject of Ordinance No. 12. By "African" is meant "any member of the aboriginal tribes or races of Africa and includes any person having the blood of any such tribe or race and living after the manner of any such tribe or race." There is a special Director of Native Education, and the Ordinance establishes an Advisory Board to deal with its provisions.

Locations.—The object of No. 15 is to regulate locations, by which is meant any number of huts or dwellings established upon the land of any land-holder occupied by persons who are not included in the employment of the land-holder. They can only be established with the sanction of the Governor, who has power to revoke or suspend the permit in the event of any failure to comply with the conditions authorizing the location.

Africans.—Any African who by reason of his character, record, qualifications and standing is in the opinion of the Provincial Commissioner a

fit and proper person, may receive a letter of exemption to relieve him from the operation of all or any such laws dealing with the control of natives by day or by night or with residence in native locations. The exemption may extend to the wife and children of the holder of a letter while living with and in the company of such a holder, provided that such privileges shall cease in the case of a male when he attains the apparent age of sixteen and in the case of a female on her marriage.

Trading with the Enemy.—On September 3 assent was given to Ordinance No. 29, imposing the usual penalties for trading with the enemy.

Emergency Powers.—No. 31 was also an Ordinance due to war conditions and gives to the courts the usual powers of relief for the people unable to meet their obligations owing to the state of war.

7. SOUTHERN RHODESIA.

The volume for 1939 contains two Ordinances which were passed in the previous year. One of them, No. 32, deals with coinage and currency, and the other, No. 33, is the corresponding Ordinance to that of Northern Rhodesia constituting a Court of Appeal. During the year itself twenty-seven Ordinances received assent.

Law Society.—No. 4 reconstitutes the Law Society of the Colony.

Chamber of Mines.—No. 5 provides for the Incorporation of the Chamber of Mines of Rhodesia, and the dissolution of the Rhodesia Chamber of Mines and the Chamber of Mines of Salisbury.

National Register.—No. 12, amended by No. 3, makes arrangements for the compilation of a National Register.

Defence.—No. 13 is a comprehensive measure conferring powers upon the Government to deal with the various conditions arising from a state of war. It includes among other matters provision for controlling all kinds of industry, the internment of aliens, prohibitions and restrictions upon financial transactions, and similar measures.

Aircraft.—Ordinance No. 14 gives the Minister of Defence complete control over any aircraft within the Colony.

Trading with the Enemy.—No. 17 makes the usual provisions relating to trading with the enemy owing to a state of war.

Legislative Assembly.—No. 18 provides that membership of any of His Majesty's Forces is not a disqualification for membership of a legislative assembly.

Courts Emergency Powers.—The Courts, by No. 19, are given powers rendered necessary by conditions of war to relieve persons from the obligation to repay loans and to suspend or altogether prohibit execution against immovable property where action would inflict hardship.

Gold Premium.—The object of No. 20 is to tax profit made from the transactions in dealing with gold.

VII. BRITISH INDIA[1]

1. CENTRAL LEGISLATURE.

During the year 1939, forty-two Acts were passed by the Central Legislature and three others were made by the Governor-General in

[1] Owing to the destruction of reviews which had been supplied from India, Dr. Vesey Fitzgerald has kindly supplied this section, except where otherwise noted.

the exercise of his special powers. Of these, five were concerned with questions of Transport, nine with Industry, six with Commerce (including Insurance), nine with Taxation, three with personal law, one with the Census, two with small Provinces having no legislature of their own, one with the Province of Berar (whose legislative position is (or was) exceptional), three with the War, and six with various other topics.

Such a classification is, of course, necessarily haphazard, since Taxation must impinge on other interests and two Acts, XXXVII (Aircraft (Amendment)) (classified as Transport) and XVI (Registration of Foreigners) classified as Personal Law, have an obvious flavour of Defence. The large number of Acts dealing with the regulation of industry, commerce and transport, bear eloquent witness to the Industrial Revolution now proceeding with ever-growing momentum in India.

Of this total of forty-five no less than 31 (or substantially 33)[1] are Amending Acts. These Acts vary in length from Acts of two or three sections up to the Income-Tax Amendment Act VII of 1939, with its 92 sections, some of them very lengthy. The Repealing and Amending Act XXXIV of 1939 introduced small amendments into 22 different Acts. The Census Act XXIV of 1939 which makes provision for the taking of a decennial Census in 1941, can hardly be described as new legislation, since the provisions are based on those of similar decennial Census in the past. Only eleven Acts, therefore—ten of the Legislature and one of the Governor-General— introduce new legislation.

Moslem Marriages.—Perhaps the most striking legislation of the year is the Dissolution of Moslem Marriages Act VIII of 1939. Hindus have for many years resorted to the Legislature to remedy the defects of Hindu Law as administered by the Indian Courts ; some of the Acts which they have passed for the purpose have dealt drastically with provisions which are unquestionably to be found in the Sanskrit Sources. In many of the Acts which they have passed a strong desire to protect and improve the position of women has been manifest. But so far the Moslem community has been averse to laying the rough hands of the Legislature upon the body of the Sacred Law. The Musalman Wakf Validating Acts were no exception since the sole purpose of those Acts was to remedy what every competent scholar now admits to have been an erroneous decision of the Privy Council. The first sign of any change in the Moslem attitude in this respect was the Shariat Act of 1937. Outwardly that Act is nothing but a declaration of militant orthodoxy. In a number of cases (which need not here be specified) the rule of decision between Moslems is to be the *Sharia,* and pleas of custom contrary to the *Sharia,* however old-established, are not to be heard. In certain other cases, such as the will-making power, provision is made for pious Moslems to return to the *Sharia* if they so desire. But strong though the feeling of orthodoxy was which prompted the Act, it was strengthened by the feeling that under the customary law which, *e.g.,* deprived women of their Qoranic rights of inheritance, the weaker sex was not getting a fair deal.

The same traits are observable even more markedly in the Dissolution of Moslem Marriages Act. Opportunities for the study of Moslem law, both in its sources and in its actual administration in other countries, such as Egypt, have increased enormously in recent years, and Indian scholars who have taken these opportunities have become aware that although

[1] The word Amendment does not occur in the short titles of the Indian Soft Coke Cess Committee (Reconstruction and Incorporation Act)XXIII of 1939, nor in the Finance Act, 1939. But, substantially, they are only Amending Acts.

the Moslem husband retains his right to divorce his wife at his own discretion (subject to such checks as the law has been able to devise) the Moslem wife, on her side, has an extensive right of appeal to the Courts for complete release from, *e.g.*, a brutal or deserting husband.

The Act also provides that the apostasy of a Moslem woman shall not *ipso facto* dissolve her marriage, but it provides that such an apostate can have the marriage dissolved if the husband fails to treat her after apostasy with due consideration. There have been cases in recent years when change of religion was merely a device to get rid of an unsatisfactory husband. Such a device is no longer necessary for a Moslem wife who has a genuine matrimonial grievance.

Weights.—The Standard of Weights Act IX of 1939 is not likely to prove a very valuable piece of legislation, though the intention, namely, to correlate the Indian system of weights to the English pound avoirdupois rather than to the French kilogramme was wholly admirable. Apparently a standard metal cylinder was prepared, with the intention that it should be exactly 1,800 grains or 10 tolas in weight. When tested by the Standards Department of the British Board of Trade it was found to fall short of that weight by an inconvenient fraction of one grain. Instead of recasting, it was decided to " make do " with it, a course which resulted in the following not very helpful definition:—

" 2. (1) The unit for weight shall be the Standard grain, that is to say, that weight which when multiplied by 1799.84585 is the weight in *vacuo* of the iridio-platinum cylinder in the custody of the Mint Master, Bombay, certified by the Standards Department of the British Board of Trade as having a weight of 1799.84585 grains in *vacuo*."

The Act provides no penalties for the use of units of weight differing from the Standard (contrast the Burma Measuring Baskets Standardization Act I of 1939) and is not likely to do more towards solving the chaos of customary and reputed weights in India than the Act of 1871, which it *pro tanto* repeals.

Motors.—Of the remaining enactments the Indian Motor Vehicles Act IV of 1939 in 133 sections and copious schedules repeals the long since inadequate Motor Vehicles Act of 1914, and covers the whole field of motor traffic on the highroads, including *inter alia* licensing of drivers and vehicles, insurance against third party risks, controls of traffic, the " Highways Code," and other matters on lines which are familiar to every English motorist. Much of its provisions were already in operation by the energy of police officers and local authorities and the (on the whole) willing co-operation of the public under the old Act. But they are now given a firm foundation of law.

Registration of Foreigners.—The Registration of Foreigners Act XVI of 1939 makes possible the compulsory registration of all foreigners. The word " foreigner " (which must be carefully distinguished from alien) includes as well as aliens all British subjects who are neither British Indian subjects nor domiciled in the United Kingdom ; on the other hand, it does not include rulers and subjects of Indian States nor Diplomatic and Consular representatives. Provision is made for exempting any particular foreigners or class of foreigners from the necessity for registration, and this provision will presumably be exercised in favour of most British subjects, but not in favour of those coming from parts of the Empire where Indians, in the view of Indian public opinion, are not accepted on a footing of legal equality.

Medical Men.—The Medical Diplomas Act XXVIII of 1939 provides for the registration of qualifications to practice medicine and surgery granted in the United Kingdom or in Burma. This is a subject which has caused some bad feeling in the past, since the (British) General Medical Council claims the right to satisfy itself of the adequacy of Indian qualifications before registering them in the United Kingdom, and some Indian opinion was inclined to regard this as a slight upon India. The matter has now been settled in the only commonsense manner, viz., by granting the appropriate body in India a power, subject to appeal to the Privy Council, similarly to exclude British qualifications of whose adequacy it is not satisfied. The separation of Burma from India necessitated the inclusion of Burma in the provisions of the Act. Cases for invoking the provisions of the Act are likely to be rare: and the action of the General Medical Council has probably been of benefit to India in calling attention to the necessity of clinical experience for all candidates for a licence to practise.

Evidence.—Of the remaining Acts, the Commercial Documents Evidence Act XXX of 1939 is itself evidence of the growing commercial activity of India. It enables the Courts to accept without special proof *prima facie* authentic copies of a large number of commercial documents as evidence of the facts therein stated, and to make presumptions in regard to them.

Of the remaining Acts, namely, the Indian Defence Act XXXV, the Indian Air Force Volunteer Reserve (Discipline) Act XXXVI (both of them, it should be noted, passed by the Indian Legislature) the Naval Reserve Forces Discipline Act, The Coal Mines Safety (Storing) XIX and Sugar Industry Protection (XX) Acts, the purport is sufficiently explained by the titles.

2. MADRAS.

Of twenty-three Acts passed by the Madras Legislature during the year fourteen are small amending Acts, bringing up to date the law on a variety of topics principally local government. Five Acts are concerned with raising additional revenue by taxes on electric energy, motor spirit, tobacco, sales and amusements—presumably to replace the Excise revenue expected to be lost by the Government's Prohibitionist policy. The other four are the Public Health Act (III of 1939) an Act (XVIII of 1939) for restoring, as the Congress Party when it came into power was morally bound to do, village officers who had been deprived of their office for taking part in political agitation, the Mapilla Marummakkattayam Act (XVII of 1939), and the Madras Temple Entry Authorization and Indemnity Act (XXII of 1939).

Of the last two the former deals with the family law of the people more commonly known as the Moplahs, a community which manages to combine a fanatical adherence to Islam with a number of observances such as matrilineal succession and the Malabar joint family, entirely opposed to the precepts of the *Sharia*. The latter, which carried on the policy of the Malabar Temple Entry Act, 1938, throws open seven great Hindu temples (four in Madura, one in Tanjore, and two in Tinnevelly) to the Adi Dravida (formerly called " untouchable ") classes, provides for other temples similarly to be thrown open and indemnifies all temple trustees and officials who have abetted such entry prior to the enactment of this law. The Act exemplifies the hold which Mr. Gandhi's

teaching has on the Congress Party, then in power in Madras, since apart from that teaching its provisions would undoubtedly have been most unwelcome to the high caste Hindus, who form so large and influential a section of the party.

Public Health.—The Public Health Act (III of 1939), the principal piece of legislation of the year, is a comprehensive code of public health in 145 sections, and a long Schedule. It provides for the setting up of a public health department of Government and for similar departments under local bodies ; for the control of water supply, drainage and sanitary conveniences ; for the abatement of nuisances ; for the control of infectious and venereal diseases and of mosquitoes as the vehicle of malaria and certain other complaints, and for most of the various other matters, such as insanitary dwellings and overcrowding—usually dealt with under the heading of Public Health. Provision is made for the Government Public Health Department to intervene. The powers given to the Public Health Authorities are drastic and summary in character, the provisions in particular for abatement of nuisances being a great improvement on the half-hearted and complicated provisions of the Criminal Procedure Code. Rule-making powers are given to the Governor on the widest possible scale: and the Act closes with an admirably compact statement in the form of a Schedule of the penalties to be enforced by the Criminal Courts for offences against the Act.

3. BOMBAY.

Twenty-four Acts were passed by the Bombay Legislature during the year and five others were made by the Governor and became law on receiving the assent of the Governor-General. Of these twenty-nine, fifteen are (as their names admit) only amending Acts, most of them very brief ; and one is a purely private Act dealing with the trust Funds of a baronetcy. Items of interest appear to be the search for additional sources of revenue exemplified in the Sales Tax (V) and Prize Competition Tax (XI) Acts, and also in the [urban] Rent Restriction Act XVI, a measure necessitated by the imposition of a tax on urban site values ; and the steps taken to implement the Prohibitionist policy of the Government, including prohibition of advertisements of alcoholic liquor. (See Act VI.)

Local Government.—The Village Panchayats (Amendment) Act (No. XVIII) is notable for the provision it makes for the representation of minority interests, including those of the Harijans (*ci-devant* untouchables).

The Gas Supply Act (No. IX) and the Lifts Act (No. X) exemplify the increasing use of Western aids to comfortable living. But the most substantial legislation of the year is concerned with the protection of the agriculturist, who is still, after all, the backbone of India—the Agricultural Produce Marketing Act and the Land Revenue Code Amendment Act (passed by the Legislature) and the Agricultural Debtors Relief and Tenancy Acts enacted by the Governor.

Agriculture.—The Agricultural Produce Markets Act (No. XXII) follows similar lines to that in the Punjab, but the attempt to define agricultural produce by *simplex enumeratio* is not very successful ; at least four agricultural products of Bombay appear to have been omitted. The point, however, is not of importance since the Act is one for the

control and improvement of markets and has no direct bearing on the goods sold there. The Land Revenue Amendment Act incorporates Settlement Rules, in the main the same as have existed for many years but have previously been matters of Departmental Regulation ; it also provides that copies of settlement reports shall be supplied to the Legislature and may be discussed therein before final orders are passed on them.

The Bombay Agricultural Debtors Relief Act (No. XXVIII), which repeals both the Dekkan Agricultural Relief Act, 1879, and the Bombay Small Holders Relief Act, 1938, is an enactment of the most sweeping and courageous character. Proceedings under the Act are to be compulsory—that is to say, once a Board has been set up all claims which might be brought before it, and are not so brought, are to be regarded as having been fully discharged. Boards, which may consist of one Government servant or a number of other persons, are to be set up, with power to go into the whole complicated and tangled history of debtors' indebtedness from its beginning (provided that they may accept a novation of contract not less than 20 years old as the beginning). They may declare a sale to be really only a mortgage if in a class of case all too familiar to judges in India, when the provisions of the Indian Evidence Act have prevented such an allegation from being investigated. Over the whole term for which a debt has already run, irrespective of any formal novation in the last twenty years, they must reduce the rate of interest to certain moderate *maxima* and must substitute simple for compound interest. They may make corresponding deductions in the amounts of decrees already awarded by courts against the debtors. Having done so they may assess the debtor's assets, and still further reduce the indebtedness to 80 per cent. of the assessed assets ; and they can hold out a powerful inducement to creditors to accept a reduction to 50 per cent. They may order payment by instalments over 25 years or they may still declare the debtor insolvent and sell a portion of his property with a clear title. Moreover, the Board is given power (see 6) to decide "*all questions of any nature whatsoever* which may arise . . . . or which the Board may deem it expedient or necessary to decide for the purpose . . . . and its decisions shall be final and binding on all parties and all other persons claiming through or under them." All this is to be done by Boards before whom normally legal practitioners will not be allowed to appear and on which there is no guarantee that anyone with any legal training will sit, though apparently lawyers may appear before the court which is asked to confirm the award and before the appellate court ; and a senior first-class subordinate judge is given powers of inspection and control. The Act does not apply to any debtor whose debts exceed Rs. 15,000. It only applies, therefore, to a comparatively humble class of debtor. By comparison the Bombay Tenancy Act, 1939, is a very milk-and-water piece of legislation. It establishes two classes of tenants, protected and ordinary: it will not be difficult for a landlord to prevent a tenant acquiring protected status, but even a protected tenant is liable to have his tenancy terminated if the landlord required the land for his personal use " or for any non-agricultural purpose," and no rights to sell, transfer or encumber a holding is recognised: (certain superior classes of tenant in other parts of India possess such a right). The Act, however, contains a number of very useful provisions for the protection of tenants of both classes and will probably be found to be beneficial.

4. BENGAL.

During the year, fifteen Acts were passed by the Bengal Legislature ; three regulations were made by the Governor for excluded areas ; and three Ordinances were promulgated by him in the exercise of his powers under Sec. 88 (1) of the Government of India Act, 1935.

Jute.—All three Ordinances are concerned with Bengal's great industry of jute cultivation. The first two, promulgated just before the outbreak of war, represent an attempt to control speculation in " futures " of jute and hessian cloth ; the third, promulgated seven weeks later, is a provision to obtain a record of lands on which jute was cultivated in 1939.

The regulations contain nothing of general interest.

Statute Law Revision.—Of the Acts, the largest (I of 1939) is a Repealing and Amending Act, embodying, according to the healthy Indian practice, the small amendments which have been found necessary in no less than 50 different enactments having no necessary connexion with each other. It shows that the machinery of the Bengal Legislative Department is still functioning with the same meticulous efficiency as in days before popular government. Of the other Acts no less than nine are also amending Acts, bringing up to date enactments dealing with Agricultural Tenancy Law, Police, Stamps and Excise and the Municipal Government of Calcutta. One of them, III of 1939, lowers the rate of interest to be allowed by the courts in certain cases from 12½ per cent. per annum (or in one case 7½ per cent.) to 6¼ per cent. There remain five Acts which introduce new legislation.

Finance.—The Finance Act (IX of 1939) imposes a tax on trades, professions, callings and employments, which is admittedly an addition to the income-tax payable on earned income during the year. Apparently a sum of thirty rupees is to be paid in every case, neither more nor less. The objections to such an impost are obvious: but the search for new sources of revenue, keen everywhere in India, must be particularly urgent in Bengal, where additional difficulties (as is well known) are created by the Permanent Settlement.

Dental Surgeons.—The Bengal Dentists Act (No. XII) provides for the registration of qualifications in dental surgery.

Irrigation.—The Bengal Tanks Improvement Act (XV of 1939) is intended to foster in the interests of agriculture the restoration of derelict " tanks " (in the Indian sense of the word,[1] *i.e.*, artificial lakes for the use of the community). The Collector is empowered to declare any ancient irrigation tank which no longer fills that purpose and which the owners fail to repair after due notice, to compensate, at the expense of the lessee, any cultivators who are actually cultivating the bed of the tank, and a few other persons, such as those having fishing or fruit collecting rights (jalkar bankar) and either to repair it at Government expense or to make it over to one of a number of persons or bodies (of whom co-sharer owners of the tank have a preference) on a twenty-year repairing lease. At the end of that period the restored tank is to revert to its original owners, when it is hoped that they will maintain their restored property in proper condition.

[1] The word which has passed from the Portuguese into " Hobson Jobson " as well as into a number of Indian vernaculars, has a similar meaning to *Étang* in French, and like it and the English word *stagnant* and such place names as Tangmere, is descended ultimately from the Latin *Stagnum*.

Provision is made for the termination of the lease when the lessee is not carrying out the terms of his bargain and for him to levy such charges for the use of water for irrigation as should enable him to make a reasonable profit.

Social Welfare.—Two Acts dealing with social welfare are of some interest. The Bengal Rural Poor and Unemployed Relief Act X of 1939, an extremely modest measure, provides for the maintenance of a fund to be received by subscriptions, poor boxes and other voluntary means, supplemented by such contributions as Government and Local Authority may be able to make. Out of this the Committee may make grants at a rate of 2 annas a day to any person over 12 years of age and half anna a day to any person below that age who is in need for a period which shall not exceed four or in exceptional cases 10 days at a time. They shall also "attempt to provide him with employment" and may lend him as much as five rupees without interest in order that he may find employment. One may doubt whether such slender assistance can really do much to relieve serious cases, but at any rate the provision for exciting the corporate conscience of the local community in regard to its poorer members is a step in the right direction; and charity, which is strongly enjoined both by the Hindu religion and by Islam, may find a new and healthy outlet. The Bengal Maternity Benefits Act IV of 1939 casts on employers of female labour in factories the duty of providing an eight weeks holiday on full pay (or eight annas a day, whichever is greater) to any female employee on account of childbirth—four weeks before delivery (optional) and four weeks from delivery (compulsory). The provisions of the Act are well conceived and should be difficult to evade. Provision is made for disputes to be settled by an Inspector of Factories, with an appeal to the Labour Commissioner, whose decision shall be final, and full notice of this Act in the vernacular is to be compulsorily displayed in every factory.

5. UNITED PROVINCES.

Eighteen Acts were passed by the United Provinces, of which 12 were merely small amending Acts; of the remaining six one was concerned with the raising of revenue by a tax on sales of motor spirit, three with Land Revenue and Agricultural Law (namely, No. VIII Consolidation of Holdings, No. XVII Tenancy, and XVIII Rent Remission); one, No. II, is concerned with Indian systems of medicine, and one, No. XVI, was acknowledgment of control of the great Badrinath Temple in Garhwal. The consolidation of holdings is a hopeful line of agricultural improvement.

Temples.—The proper control and management of temples in India is a matter with which members of other religions will sympathise. It is not known whether the state of affairs at Badrinath was such as to call urgently for control, or whether the Act in this case was prompted solely by the great importance of the temple in question. But there can be no doubt that over the whole of India, and on a large scale, Hindu religious endowments do need more careful regulation and inspection in the interest of the Indian community than they have been receiving. Scholars may also be conscious of the fact that many of these old temples and *maths* have very valuable Sanskrit libraries, which are in danger of being lost to the world if something is not done to bring the institutions, in which such libraries exist, under proper control and supervision.

The only criticism which may be offered of the Act is that it applies only to a single temple; legislation on a more sweeping scale is needed.

Medical Men.—The Indian Medicine Act (X of 1939) is concerned with the registration and improvement of the standard of practitioners of the Hindu and Moslem systems of medicine, namely, the Aywrvedic and Yumani system; this also deserves a welcome. Those whose connexion with India dates back for a considerable period know that at one time British officers in India frequently preferred to consult the indigenous practitioners rather than the medical officers provided by John Company or the Queen's Government; and probably they ran less risk by doing so. Western medicine has made enormous strides in the last fifty years. But in many fields, particularly the *materia medica*, the eastern systems still have much which is worth studying. To give only one instance, the now established cure for leprosy is based on the application of an Eastern remedy (namely, chalmoghra oil) by Western methods, namely, hypodermic injections.

6. PANJAB.

The Panjab Legislature passed eleven Acts during the year, of which seven were amending Acts, making small additions to or enlargements of existing legislation. The remaining four provided (I) for the levy of a tax on sales of motor spirit, (V) for the setting up of committees to regulate markets for agricultural produce, (VIII) for a cess on Moslems throughout the Province for the support of the Badshahi Mosque, Lahore, (XI) for the setting up of Panchayats in rural areas, that is to say, of committees to exercise a wide variety of petty administrative, civil, and criminal judicial functions. Appointments to such *panchayats* are normally to be by election for three years: but safeguards are provided.

7. BIHAR AND ORISSA.

Sixteen Acts were passed by the Bihar and Orissa Legislature during the year, of which no less than ten were merely amending and repealing Acts. One of the amending Acts, namely, No. X, Private Irrigation Works (Bihar Amendment) inaugurates a more active policy in the encouragement of private enterprise in irrigation. Of the remaining four Acts, one (No. VIII) is concerned with the raising of additional revenue (Motor Spirit Taxation), one (No. II) with the reduction of rents in a number of villages, one (No. XIV) with the regulation of money-lenders and one (No. XI) with inaugurating a policy of Public Irrigation Works.

The Money-lenders Act forbids compound interest, introduces *maxima* rates and the Hindu and Roman Law principle of *dam dupat—alterum tantum*,[1] and provides for the reopening of transactions in order to give effect to its provisions. It is not as drastic or far reaching as the Bombay Agricultural Debtors Relief Act. On the other hand, it applies to all classes of debt, without limitation of size.

8. CENTRAL PROVINCES AND BERAR.

The C.P. and Berar Legislature passed 39 Acts during the year, of which 33 were in name and two others also in substance merely amending Acts. Of these, however, four require special mention.

[1] See article by the present writer in *Jour. Comp. Leg.*, Third Series, vol. vii, p. 171.

Prisons.—The Prisons Amendment Act IV provides for the temporary release of well-behaved long-term convicts for periods not exceeding ten days at a time at intervals of not less than one year. The Prisoners Amendment Act provides for special treatment for political prisoners: " political activity " and " political offences " are defined by the Act so as to exclude any but technical violence or force, but not so as to exclude dishonesty or fraud. Cheating, forgery, perjury and bribery may be political offences ; but, at any rate, murder or causing hurt cannot be so. The position of mischief is perhaps doubtful.

Local Government.—Acts XXXI and XXXII provide for the representation of minorities on local bodies ; but since the representatives of the minorities are to be adopted by the elected representatives of the majority, they are hardly likely to inconvenience the majority very seriously. Of the four remaining Acts, one (No. XXXV) is concerned with grants in aid to local bodies, one (No. XXXIV) with collection of statistics, one (No. VIII) with the imposition of a tax or licence duty on vendors of tobacco, both wholesale and retail, and with regulations for the same.

Agricultural Debtors.—The Relief of Indebtedness Act XIV of 1939 applies to agricultural debtors whose debts do not exceed Rs. 25,000 ; it contains provisions for reopening of transactions, for reduction of rates of interest with retrospective effect, for *dam dupat—alterum tantum,*[1] and for the reduction in cases of old standing debts of the principal sum due.

9. ASSAM.

[*Contributed by the Secretary to Government Legislative Department.*]

During the year 1939 ten Legislative measures were adopted in Assam.

Commissioners' Powers.—On the abolition of the post of the Commissioner, Surma Valley and Hill Division, with the sanction of the Secretary of State, the Governor of Assam has appointed the Commissioner, Assam Valley Division, to exercise jurisdiction in certain matters in the Surma Valley and Hill Division. As a measure of relief to the Commissioner, Assam Valley Division, the Government of Assam adopted No. I.

Ministers' Salaries.—With a view to curtail the salaries of Ministers fixed by the Assam Act IV of 1937 as a measure of economy, No. II was passed by the Assam Legislature when the Congress Coalition Government was in power.

Sales of Motor Spirit and Lubricants.—No. IV was passed with a view to make provisions for the levy of a tax on the retail sales of motor spirit and lubricants.

Luxury Tax.—With a view to imposing a tax on sales of articles of luxury No. V was passed.

Entertainment Tax.—With a view to increase the public revenues of Assam and for that purpose to impose a tax on entertainments and other amusements and on certain forms of betting, No. VI was adopted by the Government of Assam.

Finance.—In consideration of the deterioration of the provincial finances, the prospective loss in the revenue on account of the introduction of prohibition of the use of opium, the grant of liberal remissions of land revenue, and to finance other beneficial projects, the

[1] See footnote to Bihar and Orissa above.

Congress Coalition Government in Assam adopted No. IX as one of the measures to tap an additional source of revenue.

The object of No. X was to impose for the year 1940–41 the rates of taxation under sections 3 and 6 of the Assam Agricultural Income-tax Act, 1939.

10. NORTH-WEST FRONTIER PROVINCE.

Twenty-four Acts were enacted in the North-West Frontier Province during the year ; twelve are small amending Acts ; two are concerned with raising new sources of revenue (Motor Spirit and Table Waters) ; one of the amending Acts also deals with Entertainment Tax ; three with questions of Public Health, including an Act for the registration of midwives. One Act makes primary education compulsory, with exceptions where no suitable school is available within reasonable distance ; three deal with agricultural questions, and two with matters concerning the Mohammadan religion. Of the amending Acts several are concerned with amendments of these eleven.

Agriculture.—Of the three Agricultural Acts, one (No. II) provides for the protection of a particular crop of local importance. The Agricultural Debtors Relief Act (No. IV) provides for the registration of pawnbrokers and money-lenders, remits all interests outstanding on October 1, 1937 (a provision reminiscent of Hebrew law) and enacts with retrospective effect and universal application the Hindu and Roman Law rule of *dam dupat* or *alterum tantum*.[1] The Agricultural Produce Markets Act (XIV) follows similar lines to those enacted in the same year in Bombay and the Punjab, and prohibits unauthorized markets in the vicinity of those controlled under the Act.

Religious Endowments.—Of the Acts concerning the religion of Islam, the Waqf Act (I) provides for Provincial and District Committees, and for the proper audit, control and supervision of Waqfs ; a valuable enactment, but the repeal of previous enactments is so worded as to deprive the religious and charitable endowments of other religions of such protection as the Acts of 1863 and 1920 afforded. This result was presumably not intended ; but the protection in question was not very satisfactory and the endowments of religions in the N.W.F.P. can only be few. Act XXIV ensures that the printing and sale of copies of the Holy Quran shall be in Moslem hands.

11. ORISSA.

[*Contributed by* W. W. Dalziel, Esq., *Secretary to Government.*]

During the year 1939 seven Acts were passed by the Orissa Legislature. All of them were official measures.

Land Tenure.—The Madras Estates Land (Orissa Amendment) Act (No. 1) provides for the temporary protection of the occupancy right of ryots in whole inam villages and directs stay of proceedings in ejectment of such tenants up to March 31, 1940, pending the enactment of a law on the subject after full consideration.

Prohibition.—The Opium (Orissa Amendment) Act (No. 2), substitutes certain new sections for section 20 of the Opium Act, 1878, so as to empower the Excise officers to investigate offences and grant bail under that Act.

[1] See footnote to Bihar and Orissa above.

The object of Act No. 7, the Orissa Prohibition Act, is to enforce the prohibition of the production, manufacture, possession, export, import, transport, purchase, sale and consumption of liquor, tari and intoxicating drugs in Orissa. Liquor and intoxicating drugs intended to be used for sacramental purposes have been exempted from the purview of the Act. Provision has also been made for the issue of licences and permits for manufacture, export, import, transport, sale or possession of liquors and intoxicating drugs for medicinal, scientific, industrial, or such like purposes. This Act puts no restriction on the possession and sale of sweet tari except that a licence is required for tapping any tree.

Money-lending.—The main object of Act No. 3, the Orissa Money-lenders Act, is to relieve indebtedness in the Province and to regulate the business of money-lending by (1) requiring the registration of money-lenders, and the maintenance of a proper account by them, and (2) restricting the maximum rates of interest which can be charged on loans. A moneylender is prevented by the terms of the Act from recovering as interest more than the amount of loan advanced by him.

Religious Endowments.—The Orissa Hindu Religious Endowments Act (No. 4) provides for the better administration and governance of certain Hindu Religious Endowments in the Province of Orissa. It vests the administration and the general control of Hindu Religious Endowments in the hands of a Commissioner, who will be a Government servant under the control of Provincial Government.

Court Fees.—The Orissa Court Fees (Amendment) Act (No. 5) replaces by one uniform law the several divergent systems of Court Fee law that applied to the portions of the Orissa Province which before separation formed parts of Bihar and Orissa, Madras and C.P. respectively. It also provides for (*a*) making it compulsory for plaintiffs to state certain prescribed particulars of the subject-matter of the suit, in order to facilitate check on under-valuation ; (*b*) making deficit Court fees recoverable as arrears of land revenue where necessary ; (*c*) simplifying the provisions for the valuation of immovable property in suits for possession.

Local Government.—Act No. 6 is the Sambalpur Local Self-Government Act. It makes better provision for local self-government in the district of Sambalpur and provides for creation of representative institutions in rural areas as far as possible in line with those in the other districts of the Province.

Regulations.—During the year two Regulations, viz., the Angul Laws (Amendment) Regulation and the Khondmals Laws (Amendment) Regulation were enacted under section 92 (2) of the Government of India Act, 1935, for the purpose of enforcing the provisions of the Agriculturists' Loans Act, 1884, in the districts of Angul and Khondmals, which are partially-excluded areas.

12. SIND.

Twenty-five Acts were enacted in Sind, of which seventeen were amending Acts. One of these, however, No. XXIV, dealing with Primary Education, is really more than an amending Act, since its purpose is to implement a new policy and by the setting up of School Boards to prepare the way for universal free and compulsory education. Of the remaining seven Acts, two are concerned with new sources of revenue—Motor Cars (No. XV) and Motor Spirit (No. XX)—two with public health, namely XIII, the Nurses, Midwives, etc., Registration Act, and XVIII, the Lepers

Act, which has retrospective effect from November 10, 1936. Two are concerned with payments to local authorities, one of them the Hajj Fund of the Port of Karachi, a purely Moslem body. There remains the *Deti Leti* [giving and taking] Act, No. XXI. This is an Act to prohibit payments made or agreed to be made as part of the contract of betrothal or marriage, and to restrict *Deti Leti*. But *Deti Leti* is not defined and it is not clear what payments are prohibited and what are merely to be reduced. Apparently the intention of the Act was to prohibit bride-price and bridegroom-price altogether and to reduce other customary presents between the allied families. The Act does not apply to Moslems, for whom, of course, anything in the nature of a bride-price (other than the necessary dowry to the bride) is forbidden by the *Sharia*.

13. COORG.

Money-lenders.—The Coorg Money Lenders Act, 1939 (No. I), the only Act passed by the Coorg Legislature during the year, provides for the keeping of accounts by money-lenders, prohibits compound interest and charges on account of "expenses," and, without actually fixing maxima rates, establishes a rebuttable presumption that all rates above 7½ per cent. for secured and 12 per cent. for unsecured loans are excessive and liable to be reduced by the court under the Usurious Loans Act.

14. BURMA.

The Burma Legislature passed twenty-four Acts during the year. Of these sixteen were merely amending Acts and one an interpretation Act making small adjustments of the law. The Finance Act (No. III) of 1939 comes in this class, as an amending and continuing Act. Of the remaining seven, two are concerned with Burmese Buddhist Law, two with protection of cultivators (tenancy and land alienation), one with state aid to industries, one with the standardization of measures of capacity, and one with control of animal pests.

Industries—The State Aid to Industries Act, XXIII of 1939, sets up a Board of Industries and provides for the possibility of state aid to new industries, industries in areas where such industries have not previously been developed, and industries which need modernization. The aid may be given in a variety of ways, such as grant of a loan or of materials, payment of a subsidy for research, supply of machinery, purchase of shares or quantity of minimum dividends. Every recipient of state aid must make provision for the training of apprentices, and every company receiving such aid must make reasonable provision for the training of British subjects domiciled in Burma.

Weights and Measures.—The Measuring Baskets Standardization Act (No. I) sets up a standard measure of nine gallons capacity, and subdivisions of that measure and penalizes the use of any other measure. The offences created by the Act appear to be offences of absolute liability, the only effective way to ensure uniformity in the use of weights or measures. It appears to be no defence to a prosecution under the Act to say that the act was unintentional.

Animal Pests.—The Control of Animal Pests Act, IX of 1939, gives the Governor power to prohibit or regulate the import of animals which may become a pest or the means of introducing disease: the word "pest" is not defined.

Personal Law.—The two Acts dealing with personal law are (XIV) the Registration of Kittima Adoptions Act, whose purpose is sufficiently explained by its title, and XXIV The Burmese Women's Special Marriage and Divorce Act. This startling piece of legislation calls for a somewhat lengthy explanation. According to Burmese Buddhist Law no ceremonies whatever are needed to constitute a marriage and it is sometimes extremely difficult to say whether the union between the parties was marriage or mere concubinage, the intention of the parties (to be gathered from public repute and other circumstances) being the deciding factor.[1] Apart from the case of so-called " automatic " divorce, which has recently come in for a good deal of criticism, divorce is only available by mutual consent or for a matrimonial fault and not, as in Muhammadan law, at the mere will of the husband. Burmese Buddhist law does not set up any bar to marriage on account of difference of religion, and there is no doubt that in the past advantage has been taken of this fact by unscrupulous members of other communities to contract a union which the Burmese woman regarded as a marriage according to her law but which the " husband " regarded as mere concubinage, or at best, if he was a Moslem, as a marriage dissolvable according to his law. So far as the Act puts a stop to this state of affairs it deserves a welcome. But, in fact, it goes a good deal further. It provides that all marriages between non-Buddhist men and Buddhist women shall be celebrated according to the Act ; that wherever a non-Buddhist man and a Buddhist woman have been cohabiting under circumstances which would constitute a marriage under Burmese Buddhist Law they may be declared to be husband and wife under the Act ; that a marriage under this Act shall effect the severance of any Hindu, Sikh, or Jaina from any joint family of which he is a member ; and that the provisions of Burmese Buddhist Law shall thenceforth apply not only to the ownership of property by the parties during their lifetime but also to all questions of succession and inheritance to those properties. This means *inter alia* that the will-making power is completely lost ; and it must also be noted that the provisions of the Burmese Buddhist Law regarding the reciprocal rights of the spouses in each other's property are extremely complicated and those regarding inheritance are not only complicated but in some cases still uncertain. The provisions of the Burmese Buddhist Law of divorce will apply to such a marriage, and those provisions also contain complicated provisions regarding the disposal of the property of the spouses on divorce. The result is to bring a number of persons who do not belong to a particular religious community under the law of that community, not only in regard to the marriages which they have entered into, but also in regard to their property rights and the succession to their property. For example, such a ruling as *Ma Peva* v. *Tasuchati* IX R.R. 186, A.I.R., 1936, R417 becomes hence-forward impossible. There can no longer be any presumption that the Burmese Buddhist wife has accepted her husband's religion in order to validate the marriage according to that religion. There may be possible difficulties about the application of the doctrine of matrimonial domicile, since the Court obviously cannot be extra-territorial in its application. Ma Peva's case also illustrated one of the surprises in store for the husbands of such marriages when they discover that their step-children have rights against them not only to inheritance, but even to partition

[1] On the other hand, among the upper classes in Burma ceremonies, some of them very ancient, have always been usual and the general tendency of modern Burmese thought is certainly in the direction of tightening the marriage tie.

in their lifetime of matrimonial joint acquisitions. The application of the rule that " inheritance cannot ascend when it can descend " will also provide other unexpected results.

The relation between this Act and the Indian Christian Marriage Act in force in Burma is by no means clear. Section 4 of the latter Act makes a marriage, according to its provisions, compulsory in all cases where one of the parties is a Christian ; and to such marriages the Indian Divorce Act applies. The present Act does not repeal or modify that section, but merely says that, notwithstanding anything in it, the provisions of the present Act shall apply. It would appear, therefore, that marriages between a Christian man and a Buddhist woman probably must and certainly may be celebrated according to both systems and when so celebrated can only be dissolved, if at all, according to both systems. Further, such a marriage must be monogamous, according to the husband's religion, a restriction which most thoughtful Burmans and probably all Burmese women would approve, though in all other matters, including property, the Burmese Buddhist Law will apply to the spouses.

Land Tenure.—Of the two Acts for the protection of the cultivating peasantry perhaps the most noteworthy feature is that while such legislation has been familiar in India for many years, they appear to be the first of their kind in Burma. The purport of the Land Alienation Act (No. XII) may be gathered from Section 4 (1) which is as follows:—

" Notwithstanding the provisions of any other law no permanent alienation of land shall be made by or on behalf of an agriculturist to a non-agriculturist."

Subsidiary provisions apply this principle *mutatis mutandis* to mortgages and declare that a minimum area of land necessary for the support in reasonable comfort of a family working as cultivator proprietors shall be exempt from attachment except for Government dues or the claims of co-operative societies.

The Tenancy Act X of 1939 makes provisions for the protection of agricultural tenants, provisions which from the necessities of the case are more complicated than those in the case of peasant proprietors, since the relations of landlord and tenant require to be regulated in regard to fair rent, improvements, and other matters. Perhaps the most striking feature of the Act as contrasted with the Tenancy Acts of many Indian provinces is that no distinction is attempted between different classes of tenants. All tenants have a right on the expiration of their tenancies to renewal for periods of one year at a time at a fair rent subject to a few exceptions, of which the most important are where the landlord intends to work his land himself or to lease it to members of his immediate family who will do so. *Latifundia,* such as exist in Bengal and some other parts of India, are rare in Burma and most landlords are probably themselves cultivators. The provisions of the new Act appear to be well thought out.

VIII. EASTERN COLONIES.

1. CEYLON.

1938.

Seventy-seven Ordinances were passed in 1938.

Estate Duty.—No. 1 is a comprehensive measure establishing the machinery for the collection of estate duty, setting forth the property upon which it is to be levied and the rates payable.

Matches.—Matches, splints, veneers, or boxes under No. 9 can only be made by manufacturers licensed by the Governor.

Savings Certificates.—Previous legislation authorizing the Post Office to issue Cash Certificates is repealed by No. 11, authorizing Savings Certificates.

Tea.—The production and export of tea is controlled by No. 12.

Customs.—Any substance used as fuel for the purpose of providing motive power for aircraft or as a lubricant may be exempt by No. 18 from Customs duty for aircraft entering or leaving Ceylon.

Criminal Appeal.—A Court of Criminal Appeal is established by No. 23.

Venereal Disease.—The object of No. 27 is to prevent the treatment of venereal disease other than by registered medical practitioners or specially authorized practitioners of indigenous medicine, which includes the systems of medicine known as Ayurveda, Siddha and Unani.

Rubber.—The allocation and distribution of the rights to plant new areas in rubber is placed under Government control by No. 38 requiring permits to be obtained for new planting. The continuance of the control of the production and export is provided for by No. 63.

Naval Volunteers.—A Ceylon branch of the Royal Naval Volunteer Reserve is constituted by No. 44 and placed at the disposal of the Royal Navy, together with the ships of war maintained by Ceylon.

Motor Cars.—The whole law on the subject of motor cars is consolidated by No. 45.

Companies.—Another consolidating Ordinance is No. 51, dealing with the law of companies.

Banking.—The Bank of Ceylon is established by No. 53 as a State-aided Bank.

Shops.—The employment of persons in shops and the control of the hours of business are regulated by No. 66.

1939.

Sixty-four Ordinances were passed during the year.

Commodities.—On March 4 the Governor gave his assent to Ordinance No. 5, providing for the maintenance of reserve stocks of commodities which would be essential for the vital needs of the community in the event of war or other public emergency. It included provision for the registration of importers of such commodities and their stocks. The Ordinance was amended by Nos. 37, 41 and 46.

Lighting Control.—Thirteen days later further evidence of preparation for war was supplied in the assent to Ordinance No. 13, requiring the total or partial cessation of lighting in Ceylon on occasions of emergency or public danger or by way of experiment or practice for such occasions.

Statute Law Revision.—No. 15 provides for the preparation of annual supplements to the revised edition of the legislative enactments of Ceylon. The work is entrusted to the Legal Draftsman, who has the powers *mutatis mutandis* of the Commissioner entrusted with the preparation of the Revised Edition. The Annual Supplement may also include subsidiary legislation and Imperial Statutes and Orders in Council according to the discretion of the Legal Draftsman. Nos. 16 and 17 are also ordinances dealing with the Revised Edition.

Immigration.—No. 19 restricts the immigration into Ceylon of members of Indian criminal tribes who have been so declared under the provisions of any law in force for the time being in any part of India.

Juvenile Offenders.—No. 28 provides for the establishment of training schools for the detention, training and reformation of youthful offenders defined to be persons who have attained the age of 16, but not of 22 years. By Ordinance No. 48 courts are established for the supervision of juvenile offenders and the protection of children and young persons. Special magistrates are appointed and in other respects the arrangements follow those customary in England. The Ordinance also deals with the employment of children and young persons as well as the prevention of cruelty and exposure to moral and physical danger.

Agricultural Produce.—No. 29 regulates the importation of agricultural commodities and facilitates the sale of the agricultural products of Ceylon by the establishment of an Agricultural Products Regulation Board.

Poor Relief.—No. 30 is a comprehensive Ordinance to provide for the establishment and maintenance of institutions for the treatment of poor persons or for contributions to voluntary agencies engaged in poor relief. Public Assistance Committees are to be set up by the local authorities to deal with applications. The authority has power to obtain reimbursement of expenditure from relations liable to maintain the relieved persons.

Education.—The whole law on the subject of education is consolidated in No. 31. It covers the constitution of the central authority—the Board of Education—the advisory bodies and committees, central and local, and the constitution, powers and duties of urban and rural education authorities. No applicant shall be refused admission into any assisted school on account of his religion, nationality, caste, social status or language. Religious instruction is not to be given as part of the ordinary course of studies, but may be given before or after the hours appointed for the ordinary session of the school. There is also a conscience clause for the children that they shall neither be required to attend nor abstain from attending any Sunday School or place of religious worship. A special section of the Ordinance deals with schools for the children between the ages of six and ten of labourers on estates, and enables estates to combine for the provision of schools.

Maternity.—No. 32 provides a maternity benefit to women workers for two weeks before their confinement and four weeks afterwards.

Motor Cars.—No. 38 makes a number of amendments in Ordinance No. 45 of 1938, which includes particularly new provisions regulating the licensing of omnibuses and lorries and directions in reference to their routes.

Price Control.—No. 39 provides for the regulation and control of the prices of commodities by the appointment of a Controller of Prices. The Ordinance was amended by No. 43.

Petrol.—The supply and conservation of the stocks of petrol is the subject of Ordinance No. 52.

Local Government.—No. 60 is a consolidating Ordinance containing 258 sections dealing with the establishment, constitution and powers of urban councils.

2. HONG KONG.

Forty-four Ordinances were passed in the year.

Evidence.—An addition is made by No. 6 to the Evidence Ordinance, 1889, to deal with the admission of documentary evidence.

Defence.—No. 8 authorizes a contribution of six million dollars annually "in full return for the annual cost of the Imperial garrison."

Incitement to Disaffection.—The object of No. 9 is to punish anyone endeavouring to seduce members of His Majesty's Forces from their duty or allegiance.

Supreme Court.—The qualification for the Chief Justice or a Judge of the Supreme Court by No. 10 is that he has been qualified for not less than five years to practise as an advocate or solicitor in a Court of England, Scotland, Northern Ireland, or some other part of His Majesty's dominions.

Hydrocarbon Oils.—The law relating to the taxation of hydrocarbon oils is amended and consolidated in No. 11, which was amended by No. 31.

Registration of Persons.—Three Ordinances are consolidated, with amendments, in No. 12, which is primarily concerned with the registration of aliens.

Town Planning.—No. 20 is an Ordinance " for the promotion of the health, safety, convenience and general welfare of the community by making provision for the systematic preparation and approval of plans for the future layout of existing and potential urban areas as well as for the types of building suitable for erection therein. The Governor may appoint a Town Planning Board to put the law into operation.

Telecommunications.—By an addition to the Ordinance of 1936 the Postmaster-General is given, by No. 23, extensive powers of search, inspection, removal and detention to prevent the improper use of apparatus or communications.

Compulsory Service.—No. 32, passed on July 28, enables the Governor to organize the man power of the Colony in essential services.

Law Revision.—No. 33 is an Ordinance to effect a number of repeals so as to clear the statute book as part of a revision of the laws.

Essential Commodities.—By No. 38 provision is made " for the maintenance of reserve stocks of commodities which would be essential for the vital needs of the community during war or other public emergency ; for the registration of importers of such commodities and for purposes incidental." The administration of the Act is entrusted to a Food Controller and for other commodities to a Store Controller.

Evictions.—Three Ordinances dealing with the eviction of tenants are consolidated in No. 44. The law is primarily directed to the protection of the tenant.

3. STRAITS SETTLEMENTS.

[*Contributed by* DR. A. DE MELLO, *Docteur en droit.*]

Fifty-three Ordinances were passed during the year. Apart from emergency and other measures of transient interest, the year is noteworthy for its social legislation.

Children.—Of the four Ordinances (Nos. 8, 17, 18 and 43) passed in the interests of children, Nos. 8 and 43 amend the principal Ordinance (No. 46 of 1937) relative to *Places of Detention for children and young persons.*[1] The new section 8A inserted in the principal Ordinance maintains the principle, already accepted in the case of Reformatories and Industrial Schools,[2] that the cost of maintaining a child in a Place of

[1] Cf. on this subject, the Imperial Statutes of 1932, 1933 and 1938 (22 & 23 Geo. V, c. 96 ; 23 Geo. V, c. 12 ; and 1 & 2 Geo. VI, cc. 40 & 69).

[2] Cf. Cap. 138, sect. 24, in vol. iii, p. 761, *Laws of the Straits Settlements* (Revised Edition, 1936).

Detention is recoverable from the person responsible for its maintenance. And the Ordinance is made applicable henceforth to females as well as males. (sect. 2.)

Ordinance No. 17 re-enacts, with amendments and additions, the principal Ordinance (cap. 28)[1] relative to the *employment, neglect and ill-treatment of children*. The main addition is Part II, dealing with " transferred children," and designed to implement the recommendations (in the form in which they have been accepted by the Government of the Straits Settlements) of the Minority Report[2] of the Commission appointed by the Secretary of State to investigate the question of " *Mui-tsai*," and transfer, for valuable consideration, of women and children in Hong Kong and Malaya. A " transferred child " is defined (sect. 11) as " a female under the age of 14 years,[3] who is living apart from her natural father or mother ": but this definition is subject to a number of exceptions contained in subsections (*a*) to (*h*). Of these exceptions, all but subsection (*e*) relate to cases in which there is little or no likelihood of ill-treatment, or in which the existing statutory powers of the Court or of the Protector of Chinese are sufficient. Subsection (*b*) does not, however, exclude the " prospective daughter-in-law " or betrothed child under the age of 12 years, which is the minimum age at Common Law for contracting a valid marriage. The general scheme for the protection of " transferred children " is as follows:—

(A) Notification is required of all " transferred children " within the prescribed time, on pain of a fine, whether the transfer is made within or without the Colony (sect. 13), the obligation to notify lying upon the father, mother, legal or *de facto* guardian of the child, and also in every case, upon the transferee. Thereupon, the Protector may, if he deems it expedient in the interests of the child, either reject the notification, and order that the child remain with its parents or guardian, or accept the notification conditionally: otherwise, the notification is accepted and recorded, with such particulars (including photographs and finger-prints) as may be prescribed by Rule. Provision is also made (sections 14 and 33) for reporting cancellation of a transfer, changes of address, etc.: and any subsequent transfer of the child will require (sect. 15) a fresh notification.

The system of notification, besides providing a record of the number of transferred children, facilitates their search and identification. Except in cases where the Protector has reason to believe that the child is in need of supervision or " further protection," no further action will follow notification, and all obligations under this Part of the Ordinance cease upon the child attaining the age of 14 years.

(B) Supervision and " further protection " is provided for in sections 16 to 19 (inclusive), which, it is to be noted, reduce domiciliary visits and searches to the minimum consistent with the child's interests. If the Protector receives information that there is actual ill-treatment or neglect, or that the child is being used or trained for an unlawful purpose, he may straightaway issue a Warrant and remove her to a place of safety, or protect her by placing her in the custody of a relative or other proper person (sect. 19), and may also institute a prosecution either for cruelty

[1] Passed in 1927, and amended in 1935.

[2] Published by H.M. Stationery Office as Col. No. 125, Jan. 23, 1937.

[3] In fixing the age-limit at 14 years, the Ordinance goes beyond the recommendations of the Minority Report.

under sect. 3, or for an offence under any other appropriate law. If, however, the information shows only that the transfer of the child has not been notified, or that the child " for any other reason " is in need of supervision, the Protector will only, in the first instance, issue a Summons for the production of the child, and a Warrant only upon failure to comply with the Summons. Further, in such case, he can, in the first instance, only require security for the well-being of the child and may only in default of security, or in the event of a breach of the security-bond, effect a change of custody or commit the child to a place of safety.

(C) The Protector is given a wide discretion in deciding upon the need of " further protection " (sect. 16): his knowledge of the language and customs of the children and people with whom he has to deal, and his investigation into the circumstances of each case, supplemented by the advice of the Secretary for Chinese Affairs, will guide him in the exercise of such discretion, and his decision even then will not be final, but subject to appeal to H.E. the Governor in Council (sect. 22).

Although ordinarily supervision, and all obligations relative to notification, production, etc., cease upon the child attaining 14 years, this age-limit is prolonged to 18 years[1] in the case of a " transferred child " in respect of whom a security-bond has been given, or who has been removed to a place of safety, or placed in the custody of a relative or other fit person.

Finally, Ordinance No. 18, for the first time in the history of the Colony, legalises, and prescribes the procedure for, *adoption*. Hitherto, the Courts of the Colony had felt themselves compelled, by the Common Law of England, to refuse recognition to the custom which was well-established in ancient communities and the peoples of China and India. The Imperial legislature having, however, accorded it statutory recognition in 1926,[2] public opinion in the East gradually succeeded in prevailing upon the authorities to convert the custom into law. Sect. 6 (5), in imitation of the Law Reform (Miscellaneous Provisions) Act, 1934,[3] treats an adopted child hereafter as the legitimate offspring of the adopter for the purposes of compensation to the family of a person for loss occasioned by his death.

Common Gaming Houses.—No. 31 amends the principal Ordinance (cap. 30) with a view to the suppression of (i) Chap-Ji-Kee lotteries, and (ii) the professional promotion of gaming and lotteries by persons who, while organising gaming for their profit, themselves remain behind the scenes.

The first aim is sought to be achieved by making the collection of lottery-tickets an offence (sections 8 and 9). Chap-Ji-Kee lotteries are operated not by any sale, but only collection, of tickets in much the same fashion as betting-slips are in connexion with horse-races: and without such collection, the lottery cannot successfully function.

To attain the second aim, the new sect. 5 provides for the prosecution of persons who profit from the establishment or conduct of the business of a " common gaming-house " or " public lottery," although neither advancing nor furnishing money for it.

[1] As under the Women & Girls Ordinance (Cap. 33) and the " Mui-tsai " Ordinance (Cap. 34), vide *Laws of the Straits Settlements* (Revised Edition of 1936), vol. i, pp. 721, 737.

[2] See 16 & 17 Geo. V, c. 29.

[3] 24 & 25 Geo. V, c. 41.

Finally, sect. 12 is amended so as to permit of the immediate search of the person of a suspect arrested upon a warrant, instead of having him taken, as hitherto, before a Justice of the Peace, for search.

Criminal Law.—Ordinance No. 11 effects a two-fold innovation, by introducing into the *Penal Code*[1] (i) a new provision (sect. 309-A) punishing infanticide, as under the Infanticide Act, 1938[2] of Great Britain ; (ii) a new set of provisions (sections 376-A to 376-D) punishing incest, as under the Punishment of Incest Act, 1908,[3] in the case of both men and women.

Ordinance No. 48 as to *Prevention of Crimes,* again, brings the local law into line with that in force in Great Britain,[4] by—

(1) Penalising persons who, after being twice convicted of an offence under the Penal Code and within seven years of their last conviction,

(i) are charged with getting their livelihood by dishonest means ;
(ii) refuse to give their correct names or addresses ;
(iii) are found loitering in order to commit an offence ;
(iv) are found on any premises without being able to give reasonable explanation therefor (sect. 2) ;

(2) exacting recognisances from persons harbouring reputed thieves, or allowing deposit of stolen goods on their premises, especially in a hotel, lodging-house, or other similar place of public resort (sects. 4 and 6) ;

(3) restricting dealings in old metals (sect. 7).

Dangerous Trades and Protection of Workers.—No. 9 is based on sect. 2 of the Factories Act, 1937,[5] and reproduces the definitions of " factory," " process," " ship," " worker " and " young person " contained in the draft Conventions and Recommendations of the International Labour Conference concerning the protection against accident of " workers " employed in connexion with ships (*e.g.*, loading and unloading cargoes, building and repairing ships).

Divorce.—No. 39[6] amends the Divorce Ordinance (cap. 84) by enabling the Courts to pronounce a divorce, decree of nullity of marriage and other relief, in favour of persons monogamously married, instead of confining them, as hitherto, only to petitioners professing the Christian religion. The amendment harmonizes with the policy of the Civil Marriage Ordinance under which all persons in the Colony (other than Mohammedans), even though polygamous by race or religion, may at their choice contract a monogamous marriage.

Public Authorities Protection.—No. 19 amends the principal Ordinance (cap. 14), in consequence of the decision of the High Court in *Wee Hong Heng* vs. *Municipal Commissioners of Singapore*[7] by

(i) Abrogating the necessity of giving any prior notice of action, and enlarging the period for actually instituting the action from 3 months to 6 months from the " act, neglect, or default " alleged against the public authority (sect. 2 (2)); (ii) requiring, however, the plaintiff, on

[1] Cap. 20 in the *Laws of the Straits Settlements* (Revised Edition, 1936), vol. i, p. 207 *seq.*

[2] 1 & 2 Geo. VI, c. 36.

[3] 8 Edw. VII, c. 45.

[4] See the *Prevention of Crimes Acts* of 1871 (34 & 35 Vict. c. 112) ; of 1879 (42 & 43 Vict. c. 55) ; of 1855 (48 & 49 Vict. c. 75) ; and of 1908 (8 Edw. VII, c. 59).

[5] 1 Edw. VIII & 1 Geo. VI, c. 67.

[6] This Ordinance has not yet come into force ; but the Civil Marriage Ordinance (No. 9 of 1940), which is above alluded to, took effect as from January 1, 1941.

[7] Reported in *Straits Settlements Law Reports* (1937), p. 189.

pain of being mulcted in costs, as in other Colonies, to afford the public authority against whom the claim is made an opportunity of tendering amends ; (iii) abrogating the excessive privilege, hitherto conferred by sect. 2 (3) upon *local* and other *statutory* authorities, of having malice and want of reasonable and probable cause being expressly alleged and proved against them (sect. 2 (9)).

Quarantine and Prevention of Diseases.—No. 52 repeals and re-enacts with some important amendments, involving, however, no substantial changes of policy, the previous consolidating Ordinance of 1933 (cap. 186).[1]

Section 2 has been enlarged by the addition of new definitions of " pratique," " vaccination," " vaccination against small-pox," " veterinary authority " and " veterinary officer."

The provisions relating to dairies, where infectious disease has broken out and is attributable to milk, have been recast for clarity, and for effecting a logical distribution of functions between the Health and Veterinary Departments.

Part IV of the prior Ordinance (devoted to " vaccination " generally) is now confined to " vaccination against small-pox " (sections 40 to 58), the provisions which related to vaccination against other infectious diseases being transferred, owing to the difference in medical requirements, to Part III, which deals with " Prevention of the Spread of Infectious Disease" (sections 4 to 39).

Part V, relative to preventive measures against the " Introduction and Transmission of Infectious Disease " (sections 59 to 94), after first laying down certain general provisions (sections 59 to 70), then deals separately with entry by sea (sections 70 to 87) and entry by land (sections 88 to 93) ; and the final section (section 94) enables H.E. the Governor in Council to control aerial navigation, owing to the rapidly changing requirements of the subject, as occasion arises, by Rules.

Vagrancy.—No. 37 aims at bringing the local law into line with that of England,[2] by providing for the prosecution, detention and repatriation of " vagrants," who comprise persons convicted by a police court (i) as " idle and disorderly persons," or " rogues and vagabonds " ; (ii) for any offence, and declared by such court to be " vagrants "; (iii) persons physically unable to earn, or unwilling to work for, their own livelihood, and having no visible means of subsistence.

4. FEDERATED MALAY STATES.

[*Contributed by* Dr. A. de Mello, *Docteur en droit.*]

Thirty-one enactments were passed during the year.

Official Secrets.—No. 23 repeals and re-enacts, with amendments, inspired by the analogous Ordinance of the Straits Settlements,[3] the prior enactment of 1922, which was found, by reason of the present hostilities, to be inadequate.

Registration of Businesses.—Ordinance No. 11, which has been the result of long and patient deliberation, is intended to realize the same purposes as the Imperial Act of 1916.[4] The Bill, embodying the recom-

[1] See Revised Edition of the *Laws of the Straits Settlements*, vol. iv, p. 1 *et seq.*

[2] *Vagrancy Acts* of 1824 (5 Geo. IV, c. 83), and of 1935 (25 Geo. V, c. 20).

[3] Cap. 102 in the *Laws of the Straits Settlements* (Revised Edition, 1936), as further amended by Ordinances Nos. 11 of 1936 and 12 of 1939.

[4] 6 & 7 Geo. V, c. 58. A similar Ordinance (No. 31 of 1940) has also recently been passed in the Straits Settlements.

mendations of a Special Committee appointed by Government, was originally published in the *Government Gazette* as far back as October 1, 1937. with a general invitation to public bodies throughout the length and breadth of the Federation to send in their comments and criticisms to the Legal Adviser; the enactment was only finally passed on October 18, 1939. It is expressly declared not to apply to businesses carried on (*a*) by registered companies, corporations, societies, or the Government, or on behalf of charitable trusts, or (*b*) by members of professions under special diplomas or licences, or (*c*) by one man under his own name, nor (*d*) such as are specially exempted by Government. Taken in conjunction with the law as to societies and companies, it is considered that the new enactment will be of benefit to the commercial community and of inestimable assistance to the authorities, particularly in the administration and liquidation of bankrupt undertakings.

Sedition and Undesirable Publications.—Nos. 12 and 13 follow the lines of Straits Settlements Ordinances Nos. 18 and 19 of 1938.[1]

5. ADEN.

Forty Ordinances were passed during the year and in a large measure consist of consolidating Ordinances and enactments which re-enact Indian law already in operation in the Colony.

Partnerships.—No. 1 contains the Indian Partnership Act of 1932 and also makes provision for the registration of firms.

Charities.—No. 2 is an Act incorporating the office of Treasurer of charitable endowments in whom any charitable property may be vested and administered under a scheme. The Ordinance defines "charitable purposes" to include "relief of the poor, education, medical relief and the advancement of any other object of general public utility," but does not include a purpose which relates exclusively to religious teaching or worship.

No. 22 deals with the subject of charitable trusts and enables an application to be made to the court for direction to trustees of the administration of any charitable or religious trust.

Indian Law.—No. 3 is an example of the incorporation of Hindu law in the law of the Colony and makes provision for Hindu inheritance. Similarly No. 5 re-enacts and consolidates the Mussulman Wakf in force in the Colony.

Gains of Learning.—No. 4 re-enacts a Hindu law dealing with the gains of learning acquired by a Hindu undivided family. They are defined to mean—"all acquisitions of property made substantially by means of learning whether such acquisitions be made before or after the commencement of that Ordinance, and whether such acquisitions be the ordinary or extraordinary result of such learning." The Ordinance then goes on to define "learning" as "education, whether elementary, technical, scientific, special or general, and training of every kind which usually is intended to enable a person to pursue in trade, industry, profession or avocation in life."

Trusts.—No. 6 consolidates the law relating to trusts and repeals various Acts from 1882 down to the present time, while incorporating the Indian law on the subject.

[1] See *Jour. Comp. Leg.* (Third Series), vol. xxii, Review of Legislation, 1938, p. 148.

Post Office.—No. 7 repeals three previous Acts dealing with Savings Banks and now contains the legislation on the subject. No. 13 comprises the general duties of the Post Office and repeals the legislation dating from the year 1898.

Trade Disputes.—Under No. 17 any trade dispute, whether existing or apprehended, may be reported to the Governor, who, if he thinks fit and if both parties consent, may refer the matter to be settled by an arbitration tribunal for that purpose. The sole arbitrator may be appointed, or an arbitrator with assessors, or one or more arbitrators nominated by or on behalf of the employers and an equal number of arbitrators nominated by the workmen with an independent chairman appointed by the Government. The parties may appear before the tribunal by counsel or solicitor, and sittings may be held in public or in private. The Government may also refer any matter connected with the economic or industrial conditions in the Colony to the Board for enquiry and report.

Cruelty to Animals.—No. 18 is a consolidating Ordinance containing those which have been passed on the subject since 1890.

Children.—No. 19 forbids the employment of a child in domestic service except in his own family. For the purpose of this Ordinance a child is defined to be a person under the age of 12 years. In Ordinance No. 20 a child is a person who, if a male, is under 18 years of age, and if a female is under 14 years of age, and neither may contract a marriage. A male above 18 and under 21 is liable to a fine not exceeding 1,000 rupees. Above that age he may be liable to the alternative of one month's imprisonment. People taking part in these child marriages are also liable to punishment, but no woman shall be punished with imprisonment.

Treasure Trove.—Treasure trove is defined by No. 21 to mean anything of any value hidden in the soil or anything affixed thereto. The Finance Officer is the person responsible for the administration of the Ordinance and to make enquiries with a view to determining the ownership.

Records.—No. 23 is an Ordinance allowing authorities to dispose of their documents similar to that passed in Northern Rhodesia.

Prisons.—No. 24 is a comprehensive Ordinance dealing with the administration of prisons and repeals the previous Ordinances passed in 1937. No. 39 makes provision for the taking of finger-prints of prisoners.

Press.—No. 27 repeals a series of Ordinances dating back from the year 1867 and now contains the law with reference to the position of printing presses, particulars to be printed on books, papers and newspapers, their delivery and the registration of books.

Supplies.—No. 28 is an Ordinance making provision for the existence of a state of war and appoints a Controller of Civil Supplies, somewhat on the lines of a Minister of Supplies, who is able to obtain full particulars of all stocks and, if necessary, to take possession of them, as well as to fix prices and require their sale. The Ordinance is of a comprehensive character and gives a general power to include in orders or notices any kind of commodity as well as all goods and animals.

Property.—No. 29 is a consolidating Ordinance now incorporating the law dealing with transfer of property on the lines of Indian law.

Easements.—No. 30 is a similar measure based upon the Indian Easements Act of 1882.

Trading with the Enemy.—No. 31 is an Ordinance on the usual lines passed on September 3, 1939.

Evidence.—The Indian Evidence Act of 1872, with various amendments, is consolidated in No. 32.

Armed Forces.—No. 33 makes provision for the raising in the Protectorate of levies for its defence.

Workmen's Compensation.—No. 40 is an Ordinance containing the law on the subject of workmen's compensation and appended is a schedule setting forth the percentage of incapacity to be attached to the loss of various limbs of the body.

6. MAURITIUS.

It is hoped to publish this review in the next issue.

7. SEYCHELLES.

Twenty-five Ordinances were passed during the year.

Coinage.—No. 3 authorizes the Treasurer to issue silver and cupro nickel coins according to the denominations specified in the schedule. It safeguards the existing paper currency.

Infanticide.—The Penal Code is amended by No. 5 by introducing the English law on infanticide.

Immigration.—The law on the subject of immigration into the Colony is consolidated and extended by No. 7.

Aliens.—The Governor is given power by No. 8 to deport aliens from the Colony with respect to whom a deportation order has been made by the authorized tribunal.

Censorship.—Control of telegrams and wireless message is given by No. 9 to the Governor in the usual terms.

Defence Force.—A defence force, to be known as the Seychelles Defence Force, is established on the usual lines by No. 15, amended by No. 20.

Emergency Powers.—Emergency powers are given as in other parts of the Empire by an Order in Council, bringing into operation the provisions of the Act passed at Westminster with that object.

Trading with the Enemy.—No. 16 was an Ordinance in the terms adopted generally.

Food.—No. 18 provided for the increased cultivation of food crops, which include "cereals, sugar canes, edible roots, beans, all kinds of vegetables and fruits," and any other produce declared by the Governor to be within the terms of the Ordinance. Landowners may be required by the Director of Agriculture to cultivate land and share the produce with the labourers in fixed proportions. Disputes between them are to be settled by the Director of Agriculture.

Liquor Laws.—The definition of La Parée in the Manufacture and Control of Toddy Ordinance, 1935 (No. 33) is amended and is now as follows: "La Parée means any liquor, whether fermented or not, made from the juice of palm trees, jam roses, pineapples or from the maceration or decoction of pumpkins, bananas, potatoes, cereals, peas, lentils, and other pulses and any other beverage liable to fermentation except Toddy, Bocca, the juice of citrus fruits, syrups, honey, imported wines, and any other liquid liable to fermentation which the Governor may from time to time proclaim."

8. STATE OF NORTH BORNEO.

[*Contributed by* J. S. Abernethy, Esq., *Legal Adviser.*]

Seven Ordinances were enacted during 1939.

Rice Cultivation.—No. 1, the Native Rice Cultivation Ordinance, 1939, empowers the Governor to invest native authorities with certain powers of control over the cultivation of rice in native areas, to ensure that, so far as possible, all native rice land is planted up every year. This Ordinance follows on recommendations made to the Governor by the Native Chiefs Advisory Council.

Paupers.—No. 2, the Paupers (Amendment) Ordinance, 1939, amends the Paupers Ordinance, 1914, by making provision for payment of allowances to female and other paupers whom it is impracticable to admit to pauper institutions.

Passports.—No. 3, the Passport Ordinance, 1939, re-enacts and amplifies the Passport Ordinance, 1920.

Fisheries.—No. 4, the Boats and Fisheries (Amendment) Ordinance, 1939, amends the Boats and Fisheries Ordinance, 1914, by providing that, with certain exceptions, only natives may fish within the territorial waters of the State.

Censorship.—No. 5, the Printing Presses Ordinance, 1939, gives the Government wide powers of control over printing presses and newspapers printed in the State.

Emergency Powers.—No. 6, the Emergency Powers (Defence) Ordinance, 1939, enacted by the Court of Directors of the British North Borneo (Chartered) Company under powers reserved to them, is similar to the corresponding legislation in other British Protectorates and Colonies.

Trading with the Enemy.—No. 7, the Trading with the Enemy Ordinance, 1939, also enacted by the Court of Directors of the British North Borneo (Chartered) Company imposes penalties for trading with the enemy and makes provision for dealing with the property of the enemy or enemy subjects and matters connected therewith.

9. SARAWAK.

Thirty-five Orders were enacted by the Royal Court within the year.

Co-operative Societies.—The Order No. C-17 comprehensively dealt with the formation of co-operative societies and their registration.

Emergency Powers.—An Order cited as E–6 gave comprehensive emergency powers to the Chief Secretary.

Recreation Ground.—The Jubilee of the State has been marked by laying out a recreation ground placed by Order J–2 under the administration of a corporate body.

Medical Men.—An Order, M–13, constitutes a Medical Board to carry out the registration of medical men and exercise discipline over them.

Official Secrets.—An Order, O–5, provides penalties for revealing official secrets.

Prohibited Area.—Order P–13 forbids the public from entering certain areas.

Aliens.—Order R–12, amended by R–12a and R–12b, provides for the registration of aliens, meaning any person other than a British subject, a British protected person, a citizen of the Republic of China, an Asiatic subject of the Queen of the Netherlands, an Asiatic citizen of the French

Republic, or any person or class of persons exempted by the Chief Secretary.

Dentists.—Order D–5 provides for the registration of dentists and the constitution of a Board to regulate admission to the profession and deal with its discipline.

IX.—WEST AFRICA.

1. GAMBIA.

Thirty-five Ordinances were passed during 1939.

Public Trustee.—No. 2 provides for the appointment of a Public Trustee and defines his powers and duties. It follows the lines of English legislation.

Marriage.—Amendments contained in No. 7 to the Civil Marriage Ordinance, 1938, include a provision for consent to the marriage of unmarried minors to be given by their parents or guardians.

Telegraphs.—No. 13 strengthens the control of the telegraphic service and wireless telegraphy by amendments to the Telegraph Stations Ordinance, 1913.

Infanticide.—No. 15 incorporates the provision of the English law on infanticide into the Criminal Procedure Code.

Defence Force.—No. 18, to which assent was given on September 4, establishes and provides for the organization and government of a Supplementary Reserve to the Gambia Company, Royal West African Frontier Force. This was amended by No. 28.

Aliens.—No. 21 imposes restrictions on aliens and provides for their registration on terms which have been found necessary in consequence of a state of war.

Trading with the Enemy.—No. 22 is another Ordinance due to the war and is in the usual terms.

Midwifery.—No. 24 renders any unqualified person practising midwifery liable to a fine not exceeding ten pounds " unless he or she satisfies the court that the attention was given in a case of sudden or urgent necessity."

Hospitals.—The management of public hospitals and dispensaries is the subject of No. 26 and repeals an Ordinance of 1901. S. 4 enacts " the primary object of every hospital and dispensary shall be to care for such sick persons belonging to the poorer classes as shall be unable from want of means to provide for themselves proper professional assistance." Patients who dispose of their medicines or appliances " for valuable consideration " are liable to a fine not exceeding ten pounds. An employer may in certain circumstances, including injury in the course of his employment, be liable to pay to the hospital the expense of his employee's treatment.

Education.—No. 27 makes amendments in the Education Ordinance, 1935. It empowers the Governor, after an inquiry to order a school or class for religious instruction to be closed when it is proved " that teaching of a seditious, disloyal, immoral or otherwise harmful character is being or has recently been imparted " in it.

Criminal Code.—No. 31 adds to the offences in the Criminal Code " any person who makes, lends, sells, keeps or offers for sale or hire or reward any fetish or charm which is pretended or reputed to possess power to protect burglars, robbers, thieves or other malefactors." If he has

any such charm in his possession " without lawful and reasonable excuse (the proof of which excuse shall lie on such person) " he is guilty of felony. The maximum punishment is imprisonment for three years.

Labour.—No. 35 adds to the Labour Ordinance, 1933, a section constituting a Labour Advisory Board and the appointment of a Labour Officer specially to deal with conditions of employment, including trade disputes, apprenticeship, and recruitment of labour.

2. GOLD COAST.

Forty-three Ordinances were passed in 1939.

Defence Force.—No. 4, which was amended by No. 39, provides for the establishment, organization and government of the Fifth Battalion Gold Coast Regiment (Territorial) and a Supplementary Reserve of the Gold Coast Regiment.

Public Officers.—No. 5 protects Public Officers with salaries under £300 a year from legal proceedings in respect to borrowing money or security for the debt of another person.

Infanticide.—No. 7 adds to the Criminal Code the provisions of the English law dealing with infanticide.

Police Force.—No. 10 adds to the Principal Ordinance by constituting a volunteer police force.

Native Administration.—The better regulation of the finances of native administration is the subject of No. 16, which provides for the establishment of Treasuries for that purpose.

Pawnbrokers.—No. 18 is a comprehensive Ordinance regulating the business of pawnbrokers.

Native Lands.—The law relating to the granting of rights with respect to land tenure by natives is consolidated and amended in No. 19.

Trading with the Enemy.—The Colony adopted the usual legislation dealing with trading with the enemy by No. 23. A supplementary Ordinance, No. 25, controlled especially the importation, exportation and carriage in war time of goods and the shipment of goods as ships' stores.

Rifle Club.—A Rifle Club Association, with the Governor as President, is established by No. 27.

3. NIGERIA.

Thirty-eight Ordinances were passed in 1939.

Stamp Duties.—The Ordinance of 1928 and an amending Ordinance of 1931, together with all the orders and regulations made under them, are repealed and consolidated with amendments in No. 5, which now contains all the law for levying stamp duties.

Immigration.—Another consolidating Ordinance is No. 11, which deals with immigration and embodies the restrictions contained in a series of earlier Ordinances.

Civil Servants.—The provisions relating to the Non-Pensionable Government Servants' Provident Fund are contained in No. 12.

Companies.—An income-tax is imposed upon companies by No. 14, which contains the arrangements for its collection by a Commission appointed for the purpose.

Defence Force.—Officers and men of the Nigeria Naval Defence Force, by No. 16, form part of the Royal Naval Volunteer Reserve.

Trading with the Enemy.—On September 3, No. 23 was passed, as elsewhere, to impose penalties for trading with the enemy.

Interpretation of Statutes.—No. 27 is a consolidating Ordinance containing the rules of interpretation applicable to certain terms and provisions usually adopted in Ordinances. It repeals fourteen Ordinances dating from 1914.

Wild Animals.—No. 38 contains amendments of the Wild Animals Preservation Ordinances, including one which forbids the use of "any motor vehicle or aircraft (which term shall include aircraft lighter than air) either for the purpose of hunting, killing or capturing any animal or bird or for the purpose of driving, stampeding or disturbing any such animal or bird for any purpose whatsoever including that of filming or photographing."

4. SIERRA LEONE.

It is hoped to publish a summary in the next Review.

X. EAST AFRICA.

1. KENYA.

Forty-two Ordinances were passed in 1939.

Farming.—Amendments are made by No. 2 in the procedure laid down by the Farmers Assistance Ordinance, 1936, especially in reference to the meetings of the local committee when the farmer and his creditors appear before them to settle an adjustment of the applicant's petition.

Mines.—An amendment, No. 7 of the Mining Ordinance, 1933, deals especially with compensation in case of accidents and in a schedule sets forth the percentage of incapacity for various injuries. The new provisions do not apply to workmen receiving more than five shillings an hour, thirty-five shillings a day, two hundred shillings a week, "eight hundred and thirty-three shillings and cents thirty-three per month," ten thousand shillings a year, calculated exclusive of pay for overtime.

Official Secrets.—No. 9 is a consolidating Ordinance with amendments containing the law relating to the prevention of the disclosure of official documents and information.

Electricity.—No. 14 is an amending Ordinance dealing with the electricity supply. Power is given to the Attorney-General to consolidate the principal Ordinance and amending Ordinances including this one, and for copies to be printed and accepted in evidence.

Defence Force.—No. 15 provides for the establishment of a company to be known as the Kenya Indian and Arab (Territorial) Company.

Labour.—No. 16, in the course of amending the Employment of Servants Ordinance, 1937, deals with juvenile labour, thereby meaning a person who has not reached the age of 16 years. Employment can only be allowed under a system of identity certificates issued by the District Officer. Another aspect of labour legislation is contained in No. 18, dealing with labourers resident on an estate. If a farm is not being properly developed the magistrate "may order any native or Somali residing thereon to remove himself, together with his family and stock, if any, within twenty-eight days after the date of such order."

Sisal.—No. 19 is a consolidating and amending Ordinance dealing with the law relating to sisal fibre and providing for the registration of sisal

plantations and plantation marks and the grading and packing of sisal fibre.

Compulsory Service.—On September 3 assent was given to No. 20, enrolling every male British subject or British protected person of eighteen years and over up to fifty for military service. The administration of the Ordinance and the granting of exemptions is entrusted to a Man Power Committee. It was amended by No. 26. No. 15 provides for the establishment in the Colony of military units. Another Ordinance on the subject was No. 27, amending the Kenya Defence Ordinance, 1937.

Trading with the Enemy.—No. 21 deals with trading with the enemy in the usual terms.

Matrimonial Causes —The law relating to matrimonial causes was amended and consolidated in No. 33.

Criminal Law.—Additions are made to the Penal Code by No. 34 to cover such offences as publication of false news, wearing uniforms, infanticide, unlawful possession of Government stores, and impounding counterfeit coins. A similar power is given to the Attorney-General to publish a consolidation as that contained in No. 14 (*supra*).

Criminal Procedure.—An Ordinance of forty-four sections (No. 35) makes a number of amendments in the Criminal Procedure Code.

Hospitals.—Local authorities are authorized by No. 37 to levy a rate to be used for reducing the rate of charges made for accommodation and treatment of European and Asian patients resident within the municipality.

Fish.—No. 39 is a consolidating Ordinance dealing with the protection of fish.

Flax.—The object of No. 40 is the advancement and control of the flax industry.

2. NYASALAND PROTECTORATE.

Thirty Ordinances were passed during the year.

National Service.—On January 16 the first Ordinance of the Session made provision for the compulsory registration of European and Asiatics for National Service. It was amended by No. 24.

Taxation.—The provisions for the direct taxation of natives are now contained in No. 14 repealing previous legislation with amendments.

Criminal Procedure.—The Code of Criminal Procedure is amended by No. 15 in details including dealing with when a wife or husband may be called for the prosecution and where a woman convicted of a capital offence alleges that she is pregnant.

Criminal Law.—Amendments in the Penal Code are made by No. 16 to deal with seditious publications, concealment of birth and infanticide.

Labour.—The Governor is authorized by No. 19 to prescribe "a minimum wage for any occupation in any district or part of a district in which he is satisfied that the wages for that occupation are unreasonably low." The Ordinance sets forth the procedure to be followed for its enforcement by authorizing police officers to examine the wages books of employers. The employment of women, young persons (under sixteen) and children (under twelve) is regulated by No. 22.

Motor Traffic.—An addition is made to the Principal Ordinance of 1934 by No. 21 consisting of a section dealing with the compulsory insurance of vehicles against third party risks.

Defence Force.—No. 23 legalises within the Protectorate the establishment and employment of units raised under the Kenya Military Units Ordinance (*supra* p. 153).

Natives.—No. 25 amends the law in reference to the employment of natives, especially as regards their recruitment, by incorporating the provisions of the International Convention on the subject.

Trading with the Enemy.—No. 26 is the usual Ordinance to deal with trading with the enemy.

3. SOMALILAND PROTECTORATE.

Twenty-six Ordinances were passed during the year.

Infanticide.—No. 8 introduces the English law on the subject whereby a woman incapable of knowing the nature of the act may be convicted of culpable homicide not amounting to murder or acquitted.

Commissioners of Enquiry.—No. 11 gives the Governor power to appoint Commissioners of Enquiry with the authority of a court to summon witnesses and obtain evidence.

Game.—No. 13 is a consolidating Ordinance relating to the preservation of game.

Sedition.—No. 15 deals with sedition on the lines of the Indian Penal Code.

Undesirable Publications.—Power to prohibit the importation of undesirable publications is given by No. 39, which also deals with their publication within the Colony.

Judicial Districts.—No. 19 divides the Colony into five districts for the administration of justice and makes provision for the appointment of judges. No. 20 is a similar measure dealing with the administration of criminal justice.

Firearms.—No. 21 is a consolidating Ordinance dealing with the export and import of arms and ammunition and generally with their possession.

Trading with the Enemy.—No. 23 is the usual legislation dealing with trading with the enemy upon the declaration of war.

Poor Persons' Defence.—No. 26 enables a magistrate to assign counsel for defence of a person charged with an offence punishable with death, culpable homicide not amounting to murder or attempts by and the abetment of the said offences.

4. TANGANYIKA TERRITORY.

Forty-six Ordinances were passed in the year.

Defence Force.—A Naval Volunteer Defence Force is established by No. 3, amended by No. 27. The Kenya Military Units Ordinance is extended to the territory by No. 28.

Labour.—No. 19 is an Ordinance similar to the Nyasaland Ordinance (*supra* p. 153) establishing a minimum wage.

Highways.—An addition to the Highways Ordinance, 1932, is contained in No. 20, constituting Road Boards to study and deal with the road problems of the Province.

Pyrethrum.—The establishment of a Pyrethrum Board and Fund is enacted by No. 21 in order to control the industry and the marketing of the products.

Disease of Animals.—Previous legislation is repealed by No. 22 and more complete provision made for controlling the diseases of animals by a Government Veterinary Department.

Criminal Procedure.—Among a number of amendments made by No. 23 in the Criminal Procedure Code is one incorporating the English law relating to infanticide.

Criminal Law.—The provisions as enacted elsewhere in reference to seditious publications are incorporated in the Penal Code by No. 24.

Moratorium.—The Governor is authorized by No. 25 to suspend temporarily payments due in pursuance of certain obligations on the lines of the English emergency legislation.

Trading with the Enemy.—The usual penalties for trading with the enemy are contained in No. 26, amended by No. 39.

Compensation.—The terms upon which compensation may be paid by the Government owing to measures taken for the defence of the territory are contained in No. 32.

Finance.—Revenue for war purposes was raised in a series of Ordinances imposing income-tax (No. 33) a duty on beer (No. 29) and raising money by Customs tariff (No. 30) and Excise duties (No. 31).

Explosives.—No. 36 is a comprehensive Ordinance making provision for the control of the manufacture, import, export, purchase, sale, possession and use of explosives.

5. UGANDA PROTECTORATE.

Assent was given to thirty Ordinances during the year.

Patents.—Previous legislation is incorporated and amended in No. 7, dealing with the registration of patents.

Penal Code.—Additions are made to the Penal Code by No. 10 in order to deal with seditious publications, publication of false news likely to cause fear and alarm to the public, infanticide, pretending to tell fortunes and selling articles bearing designs in imitation of currency.

Corporate Bodies.—No. 11 facilitates the incorporation of bodies by registration established for any religious, educational, literary, scientific or charitable purpose.

Land Survey.—The provisions relating to the Government Survey of land in the Protectorate is contained in No. 12.

Poll Tax.—Existing legislation is repealed and re-enacted with amendments in No. 13 relating to the native poll tax. New provisions are made by No. 29 for payment of a poll tax by non-natives.

Export.—The control of trade in hides and skins intended for export is regulated by No. 13 under a licensing system.

Police.—No. 16 is a comprehensive Ordinance repealing previous legislation and dealing with the organization, discipline, powers and duties of the Protectorate Police Force.

Defence Force.—No. 17, amended by No. 22, provides for the establishment of a territorial regiment for the Protectorate and Nos. 18 and 28 deal with the position in the Protectorate of units of the Kenya Regiment.

Trading with the Enemy.—No. 18 is the usual Ordinance dealing with trading with the enemy.

6. ZANZIBAR.

His Highness the Sultan made twenty-two decrees in 1939.

Public Health.—Provision is made in No. 4 for the detection, isolation and surveillance of carriers of infectious diseases.

Land Transfer.—Previous legislation is repealed and re-enacted with extension in No. 9, dealing with the alienation of agricultural lands owned by Arabs and Africans.

Trading with the Enemy.—No. 12 is a decree in terms adopted elsewhere to deal with trading with the enemy.

Defence Force.—Provision is made by No. 14 for the establishment in the Protectorate of Military and Air Force Units for service within and without the Protectorate.

Criminal Procedure.—Additions made by No. 15 to existing legislation deal with infanticide, manslaughter through negligent or careless driving, sexual offences, conviction for receiving or obtaining by false pretences and rules of procedure in general.

Criminal Law.—An addition to the Penal Law (No. 16) deals with seditious publications, infanticide and selling articles bearing designs in imitation of currency.

7. ANGLO-EGYPTIAN SUDAN.

It is hoped to publish a summary for the year 1939 in the next Review.

XI. SOUTH ATLANTIC.

1. BRITISH GUIANA.

Forty-seven Ordinances were passed in 1939.

Aliens.—The Governor is empowered by No. 9 to prohibit the entry of any alien into the Colony.

Currency.—Silver fourpenny coins shall cease by No. 10 to be legal tender for payment of an amount exceeding $9.60.

Post Office.—A censorship on telegrams is authorized by No. 16.

Criminal Procedure.—Amendments by No. 20 of the Criminal Law Procedure Ordinance deal with the disqualification of certain persons from serving as jurors and provide for a majority verdict of a jury in certain cases.

Trading with the Enemy.—No. 31 is in the usual terms to prohibit trading with the enemy. It is supplemented by No. 34, which controls the importation, exportation and carriage coastwise of goods as ships' stores.

Gambling.—The lotteries of the Demerara Turf Club are exempted by No. 38 from the prohibition in the principal Ordinance, and other lotteries may be organized with the permission of the Governor in Council.

Medical Services.—By an amendment No. 39 of the Colonial Medical Services Ordinance unregistered dentists cannot practise, and further provision is made for the control of medicines.

Petroleum.—Property in petroleum and natural gas is vested in the Crown by No. 41, which also makes provision for searching for and getting it.

2. BRITISH HONDURAS.

Thirty Ordinances were passed in the year.

Trade Marks.—Arrangements are made by No. 1, and amended by No. 21, for the registration in the Colony of trade marks registered in the United Kingdom.

Trade Disputes.—The establishment of an Arbitration Tribunal and a Board of Inquiry in connexion with trade disputes is authorized by No. 3, which makes provision for the settlement of such disputes and for inquiries into economic and industrial conditions in the Colony.

Evidence.—Amendments in the law of evidence are made by No. 7 on the lines of the English law.

Children.—The legislation relating to industrial schools is repealed by No. 9, which now covers the law relating to the care and reformation of children in certified institutions.

Infanticide.—The English law is adopted in the Colony by No. 12.

Aliens.—The Governor is authorized by No. 14 to prohibit the entry of aliens into the Colony.

Pharmacy.—Previous legislation is repealed and new regulations contained in No. 17 relating to the qualifications for chemists and druggists. It also deals with the requirements in reference to the sale of drugs and poisons.

Incest.—No. 28 adds incest to the Criminal Code, and for the purposes of the offence half brother and half sister are included under the definitions of brother and sister.

3. FALKLAND ISLANDS.

Twenty Ordinances were passed in the year.

War Legislation.—No. 1 gives authority to the Governor to make exceptional provision for the protection of the community in cases of emergency. No. 18 is a Trading with the Enemy Ordinance on the usual lines.

Infanticide.—No. 2 amends the Infanticide Ordinance of 1934 to follow English legislation.

Children.—No. 4 prohibits the employment of children under 14 and No. 16 imposes a penalty on anyone selling tobacco in any form to a child under 16.

Telegraph.—No. 8 gives to the Governor a complete control of telegraphic and other similar communications, both of the contents and any apparatus conveying them.

Slaughter Houses.—Ordinance No. 9 provides for the establishment of slaughter houses and prohibits the slaughter of stock elsewhere. Inspectors are appointed to secure the effective administration of the Ordinance.

Income Tax.—A graduated income-tax is introduced into the islands by Ordinance No. 29.

4. ST. HELENA.

Nine Orders were made in the year by the Governor.

Trading with the Enemy.—An Order, No. 7, made under the Customs Ordinance, 1936, deals with trading with the enemy.

XII. WEST INDIES.

1. THE BAHAMAS.

Thirty-five Acts received the Royal Assent in 1939.

Telegraphy.—An amendment (c. 3) of the Telegraph Department Act provides for an extension of the system of telegraphy.

Motor Cars.—C. 11 gives effect to the Convention for facilitating the international circulation of motor cars.

Dangerous Drugs.—The importation, exportation, manufacture, sale and use of opium and other dangerous drugs is regulated by c. 12, in accordance with the terms of the International Conventions on the subject.

Liquor Licensing.—Previous legislation is repealed and new provisions contained in c. 13 in reference to the sale of intoxicating liquors.

Penal Code.—The English law relating to infanticide is added to the Penal Code by c. 21.

Vagrancy.—Vagrants and incorrigible persons may be removed by an order of the magistrate by c. 22 and an appeal against such an order lies to the Supreme Court.

Defence Force.—C. 23 provides for the establishment and maintenance of a defence force.

Labour.—The recruitment of workers is now regulated by c. 28 in the place of previous legislation and can only be undertaken by persons possessing the necessary licence.

Juvenile Labour.—The employment of children under 12 is prohibited by c. 29. The employment of young persons between the ages of 12 and 16 is regulated by c. 30.

2. BARBADOS.

1938.

Sixty Ordinances were passed during the year.

Labour.—No. 18 authorizes the Governor to fix a minimum wage in any occupation where the wages are unreasonably low. No. 42 deals with the employment of women, young persons and children in order to carry out the International Convention on the subject. No. 44 authorizes the appointment of a Labour Officer to supervise and generally improve the conditions of labour by contact with the employers and workmen. No. 59 embodies legislation to carry out the International Convention relating to the recruitment of labour.

Sugar.—The manufacture and export of sugar are controlled by No. 55.

1939.

Sixty-five Ordinances were passed in 1939.

Emergency Powers.—By No. 9 power was given to make exceptional provision for the protection of the community in case of emergency, especially in respect to the supply and distribution of food, water, fuel, or light or with the means of locomotion.

Aliens.—No. 23 empowers the Governor to prohibit the entry of aliens into the island. It is supplemented by No. 52, which imposes restrictions on them.

Trade Disputes.—The establishment of an Arbitration Tribunal and a Board of Inquiry is authorized by No. 25 to make provision for the settle-

ment of trade disputes and generally for the purpose of inquiring into economic and industrial conditions in the Colony.

Civil Service. —A consolidating measure (No. 35) contains the system of employment and remuneration of the clerical staff of the Civil Service.

Trading with the Enemy.—No. 40 contains the usual provisions on the subject. It is supplemented by No. 50, providing for the prohibition or restriction of the importation and exportation of goods during the war.

Trade Unions.—Provision is made in No. 62 for the establishment of trade unions, together with the necessary powers for the conduct of their affairs.

3. JAMAICA.

Fifty-seven Laws were passed in 1939.

Lighting Control.—No. 1 gave power in the usual terms to control the lighting.

Indemnity.—No. 3 is a law to indemnify persons who, since May 1, 1938, in good faith have acted with the object of restoring order or preserving peace when " divers persons have tumultuously, unlawfully and in a disorderly manner assembled in Kingston and other places in the island in such numbers as greatly to disturb and endanger the public peace and tranquillity and to cause terror and intimidation in the minds of His Majesty's loyal and peaceful subjects."

Motors.—Compulsory insurance by owners of motor vehicles of third party risks is enforced by No. 4, amended by No. 32.

Housing.—The Slum Clearance Law of 1937 is extended by No. 5 by giving additional powers to the Central Housing Authority in respect to the acquisition of land and carrying out schemes of development. This was followed by No. 40, consolidating with further amendments the whole law on the subject. No. 52 is another law bearing on the same subject as regards the powers of building societies.

Law Officers.—The office of Solicitor-General is substituted by No. 10 for Assistant to the Attorney-General.

Labour Laws.—An Arbitration Tribunal and Board of Enquiry in connexion with trade disputes is established by No. 16 and provision made for the settlement of such disputes as well as for enquiry into the economic and industrial conditions in the island.

Public Meetings.—The Governor is authorised by No. 27 to prohibit by proclamation public meetings and processions which may be prejudicial to the interests of good order and public safety.

Infanticide.—The English law of infanticide is enacted by No. 28.

Emergency Powers.—Provision is made by No. 33 for the public safety and security of the island by giving the Governor comprehensive powers to do anything which he may consider necessary for " securing the public safety, the defence of Jamaica, the maintenance of public order and the suppression of mutiny, rebellion and revolt, and for maintaining supplies and services essential to the life of the community."

Customs.—The whole law on the subject of Customs is consolidated in No. 34 in 258 sections, embodying legislation dating back more than one hundred years.

Riots.—A Compensation Authority is established by No. 36 in every parish to deal with the damage done by riots.

Printing.—The usual provision that books and documents must bear the printer's name is contained in No. 38 and, in addition, that for six months he must preserve one copy.

4. LEEWARD ISLANDS.

Twenty-four Ordinances were passed in the year.

Supreme Court.—The Supreme Court of the Windward Islands and Leeward Islands is substituted for the existing Supreme Courts in the various islands by No. 2.[1] Existing legislation is repealed and the constitution and procedure of the Supreme Court set forth in No. 20.

Infanticide.—The English law is enacted in No. 4.

Children.—Employment of children under 12 is prohibited by No. 5.

Telegrams.—A control by the Governor over the telegrams and wireless telegraphy is contained in No. 9.

Land Settlement.—Provision is made by No. 15 for the establishment of small holdings.

Labour Laws.—An Act of 1931 is repealed by No. 16 and further powers given to trade unions. The settlement of trade disputes is dealt with in No. 17 in terms similar to those adopted in Jamaica (*see supra*) and elsewhere.

(i) Antigua.

Eighteen Ordinances were passed in 1939.

National Service.—British subjects in the Colony are enrolled for national service by No. 9.

Labour Laws.—The Ordinances relating to trade unions and trade disputes were declared by Nos. 12 and 13 respectively to be within the competency of the general legislature (*see supra*).

Entertainment Tax.—No. 16 authorizes an entertainment tax.

(ii) Dominica.

[*Contributed by* F. E. Degazon, Esq., *Crown Attorney*.]

Twenty Ordinances were passed during 1939, of which the following are of interest:—

Export of Edible Frogs.—No. 4 (The Crapaud Ordinance) provides for the protection and preservation of the Crapaud (Leptodactylus Follax) and prohibits the export thereof except under licence granted by the Governor.

Municipal Bodies.—Village Boards Ordinance (No. 5) provides for the establishment of Village Boards throughout the Colony.

Tobacco.—No. 6 regulates and controls the trade in, and manufacture of, tobacco.

War Legislation.—National Service Ordinance (No. 7) makes provision for National Service in the Colony. Nos. 10, 12, 13, and 16 provide for the levying of additional duties and rates on tobacco, income-tax, imports and exports and rum respectively, for the duration of the war.

Constitution.—No. 18 (Laws (Change of Terms) Ordinance) and No. 19 (Adaptation of Laws Ordinance) were occasioned by the separation of Dominica from the Leeward Islands and its inclusion in the Windward group as a separate Colony.

(iii) Montserrat.

Thirteen Ordinances were passed in the year.

Laws in the same terms as those in other islands deal with national service (No. 5), trade disputes (No. 7), and trade unions (No. 8).

[1] See article by Sir Algernon Aspinall *Jour. Comp. Leg.* 3rd Ser. xxii. at p. 133.

(iv) St. Christophers and Nevis.

Fourteen Ordinances were passed in the year.

Building.—No. 5 gave power to control the erection, re-erection and structural alteration of buildings.

Licences.—The law relating to licences required by persons engaged in trade and commerce, especially pedlars, is now contained in No. 12.

Legislation dealing with national service (No. 6), trade disputes (No. 8), and trade unions (No. 9) is adopted as in the other islands.

(v) Virgin Islands.

Eight Ordinances were passed in the year.

Tobacco.—No. 1 provides a close season for planting tobacco.

Diseases of Animals.—An old law of 1877 is repealed and more up-to-date provision made by No. 3 for dealing with the diseases of animals.

National Service (No. 4), trade disputes (No. 7), and trade unions (No. 8) are as in the other islands.

5. WINDWARD ISLANDS.

(i) Grenada.

Thirty Ordinances were passed in 1939.

Agricultural Products.—No. 3 deals with the importation and exportation of cocoa, nutmegs and mace.

Telegraphy.—Wireless telegraphy is now controlled by No. 4 in the place of previous legislation. No. 7 gives the Government a censorship control of telegrams.

Trade Marks.—No. 6 provides for registration in the Colony of trade marks registered in the United Kingdom.

Motors.—Compulsory insurance by motor car owners of third party risks is contained in No. 13.

Labour Laws.—An amendment by No. 16 of the Trade Unions Ordinance deals with trade disputes. No. 17 embodies in the law of the Colony the requirements in respect to the recruitment of workers adopted by the International Labour Conference in June, 1936.

Agricultural Tenants.—The provisions of the law relating to compensation to agricultural tenants for improvements are extended by No. 18, which repeals previous legislation.

Trading with the Enemy.—No. 19 contains the usual provisions forbidding trading with the enemy.

Housing.—A Housing Board of Control is constituted by No. 24 for the purpose of making loans for the construction and improvement of peasants' houses.

(ii) St. Lucia.

Thirty-two Ordinances received assent in 1939.

Immigration.—Restrictions on immigration are imposed by No. 1, which repeals previous legislation and regulates the admission of immigrants by a system of permits.

Motors.—The law relating to the regulation of motor vehicles and their control, licensing and taxation is now contained in No. 13.

Trading with the Enemy.—No. 15 is the usual Ordinance on the subject.

Entertainment Duty.—No. 17 imposes a duty on entertainments to which the public are admitted by payment.

Elections.—A consolidating Ordinance (No. 26) provides for the registration of voters, the holding of elections and the procedure in respect to election petitions.

Children.—The employment of children is restricted by No. 28.

Plant Protection.—Legislation relating to the provision, eradication and control of diseases and pests affecting plants is now contained in No. 30, repealing previous legislation.

Labour.—The terms of the International Labour Conference, 1936, relating to the recruitment of labourers are now embodied in the law of the island by No. 31.

(iii) St. Vincent.

Twenty-seven Ordinances were passed in 1939.

Immigration.—Restrictions are placed on immigration by No. 2 under a permit system similar to that in St. Lucia (*supra*).

Probation of Offenders.—Previous legislation is repealed by the substitution of provisions under No. 4 for release of offenders on probation.

Estate and Succession Duties.—The law on the subject is consolidated with additions in No. 6.

Telegrams.—No. 7 establishes a censorship over telegrams.

Rum.—Under No. 9 quotas of rum may be allowed to local manufacturers for exportation, and power is also given to fix the prices of rum manufactured in the Colony.

Trading with the Enemy.—No. 12 is the usual Ordinance on the subject.

Seditious Publications.—No. 26 strengthens the law relating to seditious publications.

Workmen's Compensation.—No. 21 contains the provisions relating to compensation to workmen, excluding among others persons employed otherwise than by way of manual labour whose remuneration exceeds £250 a year, persons whose employment is of a casual nature, domestic servants and persons employed exclusively as clerical workers and/or shop assistants.

Defence Force.—No. 22 authorizes the establishment of a Volunteer Reserve.

6. TRINIDAD AND TOBAGO.

Thirty-five Ordinances were passed in 1939.

Labour.—The employment of women in any industrial undertaking between 10 p.m. and 5 a.m. is forbidden by No. 3, though the hours may be altered to 11 p.m. to 6 a.m., and for sixty days in the year they may extend to only ten hours instead of eleven.

Trustees.—The law on the subject of trustees is consolidated in No. 4.

Arbitration.—Previous legislation is repealed by No. 5, which now contains the procedure dealing with arbitration proceedings in civil actions.

Weights and Measures.—Another measure repealing previous Ordinances and incorporating the whole law on the subject is No. 7.

Telegrams.—The censorship of telegrams is authorized by No. 8 in the usual terms.

Affiliation.—Provision is made for the maintenance of illegitimate children by No. 11, which repeals previous legislation.

Old Age Pensions.—Provision is made by No. 15 for pensions to people aged 65 who have been ordinarily resident in the Colony for twenty years and engaged in earning their livelihood for a substantial part of that period.

Wills.—The law relating to the execution of wills and the granting of probate and letters of administration is consolidated and amended in No. 17.

Conveyancing.—Another extensive piece of consolidation is No. 18, which contains the law relating to the conveyance of real property.

Trading with the Enemy.—No. 20 is in the usual terms.

Street Collections.—No. 26 follows English legislation in regulating charitable collections in the streets.

Defence Force.—No. 27 establishes a Volunteer Naval Defence Force.

Survey.—No. 29 re-enacts with extensions the previous law making provision for a comprehensive land survey of the Colony.

Pilotage.—The licensing of pilots and regulations relating to pilotage are now contained in No. 33.

XIII. MEDITERRANEAN.

1. GIBRALTAR.

[*Contributed by* C. Mansel Reece, Esq., *Attorney-General.*]

The principal legislative enactments of the nineteen passed during the year 1939 are as under:—

Emergency Control of Supplies.—No. 1 empowers the Governor to take measures at any time to ensure that Government will have control over the supplies of Gibraltar and that such supplies are maintained in such quantities as may be requisite for the emergencies of war.

Defence Force.—The purpose of No. 2 is to constitute within Gibraltar a volunteer force which may be kept in training and which may be used in time of war in the defence of Gibraltar.

Police.—No. 4 makes legislative provision for the creation of a body of police, to be known as Security Police, to serve under the directions of the Defence Security Officer.

Telegraph.—The purpose of No. 5 is to give the Governor power, whenever he deems it expedient in the public interest, to call for the original of any telegram which may be sent from Gibraltar.

Military Stores.—The purpose of an amending Ordinance (No. 6) is to confer upon the officers administering the Military Stores Ordinance more extensive powers in connexion with the restriction on the import and export of arms and ammunition from the Colony.

Aliens.—No. 9 has been enacted to provide for the making of rules to control such alien refugees as may be political offenders.

Trading with the Enemy.—No. 10 has been enacted to prohibit trading with the enemy and to provide in the future for the custody of any enemy assets which may prove to be in Gibraltar.

Undesirable Publications.—The purpose of No. 11 is to provide legislation to check the importation of undesirable publications in Gibraltar.

Sedition.—The purpose of No. 12 is to provide legislation to control seditious conduct in Gibraltar.

Foreign Enlistment (Spain).—No. 13 has been enacted to repeal the Foreign Enlistment (Spain) Ordinance, 1938, which is now spent.

Exports and Imports.—No. 14 has been enacted to make provision for the restriction of the exportation and importation of supplies during the emergency.

Public Order—No. 18 has been enacted to take power to maintain public order in public places on the occasion of public meetings or demonstrations, or otherwise.

2. CYPRUS.

Twenty-seven Ordinances were passed in 1939.

Forests.—No. 5 is a consolidation law containing the provisions for the protection and cultivation of forests.

Labour.—The terms and conditions of employment of a female domestic servant under eighteen whether she is or is not known as a "foster child" employed with or without wages are regulated by No. 11.

Trading with the Enemy.—The usual provisions are contained in No. 16.

Petroleum.—No. 19 is a consolidation of the law relating to the storage, transport and sale of petroleum.

Explosives.—The law relating to the importation and use of explosive substances is extended by No. 20, authorizing the appointment of an Inspector of Explosives.

Seamen.—No. 24 gives effect to draft conventions adopted by the International Labour Conference relating to an unemployment indemnity for seamen in the case of loss or foundering of their ship, the minimum age for the admission of young persons to employment as trimmers and stokers and the compulsory medical examination of children and young persons employed at sea.

Co-operative Societies.—The law relating to co-operative societies is consolidated in No. 25.

3. MALTA.

Fifty-four Ordinances were passed in 1939.

Inflation of Prices.—Whenever the Governor thinks it necessary in the interests of the population he has power by No. IV to fix the maximum wholesale and retail prices of essential commodities and to limit the profits on the sale, to order that no essential commodity shall be sold at a price exceeding the corresponding price at a specified date, to direct that the price and quality shall be prominently displayed on the goods, to provide that any person owning, possessing or concerned in the importation, sale, manufacture or production of essential commodities shall make a return of prescribed information, and generally to give directions to be observed for the purpose of checking abuses in the sale of essential commodities. A Price Control Board with Inspectors is appointed to carry out the Ordinance.

Elections.—Previous legislation is repealed by No. XIX which now contains the law constituting electoral decisions and determining the qualifications and regulating the registration of voters and the method for the election of members of the Council of Government. The Ordinance is supplemented by No. XXXIV further providing for the election of members of the Council.

Port Labourers.—No. XXI regulates the employment of stevedores and port labourers on lines adopted in English ports so as to secure for them regular work and rates of pay.

Drugs.—No. XXXI is a consolidating measure regulating the importation, exportation, manufacture, sale and use of opium and other dangerous drugs, and to secure the control of the external trade in them.

Wines.—The Artificial Wines Ordinance of 1911 is repealed by No. XXXIII, which regulates the manufacture, importation and sale of wines. It defines four types of wines—natural, secondary, artificial and special. They can only be sold under licence and made by commercial vintners or private vintners by special licence. A register must be kept of the production and the premises are open to inspection.

Housing.—No. XXXV deals with the clearance of insanitary areas.

Motors.—Insurance of third party risks by motorists is required by No. XXXVI.

Tobacco.—The cultivation of tobacco is regulated by No. XLIV.

Trading with the Enemy.—On September 6 No. XLVII was passed to prohibit trading with the enemy in the usual terms.

Currency.—Provision for a temporary issue of a Government paper currency was made by No. XLVIII.

Defence Force.—No. XLIX authorized the formation of a territorial force for service in Malta and its dependencies.

XIV. MIDDLE EAST.

1. PALESTINE.

[*Contributed by* F. M. Goadby, Esq., *D.C.L.*]

Although some sixty Ordinances were enacted by the Palestine Government in 1939 the majority are of only local interest, a large number containing amendments in minor particulars of previous enactments, and others being, we may hope, temporary in their character and due to the needs of the war. Thus, on the one hand are amending Ordinances on such varied subjects as Land Transfer (Nos. 1 and 39), Posts (No. 3), Tobacco (No. 4), Town Planning (No. 5), Medical Practitioners (No. 6), Trades and Industries Regulation (No. 7), Municipal Courts (No. 9), Customs (No. 13), Bills of Exchange (Protest) (No. 15), Immigration (Nos. 18, 25, 31 and 37), Interpretation (No. 21), Police (Nos. 22 and 42), Press (No. 23), Companies (No. 26), Fisheries (No. 27), Courts (Nos. 41 and 47), Land Courts (No. 46), and Criminal Procedure (No. 44). The only alteration made by the Press Amendment Ordinance is an enlargement of the powers of the District Commissioner to cancel a permit to publish a newspaper in case of failure of reasonably consecutive publication thereof. The Companies Amendment Ordinance makes several changes in the law as existing under the lengthy and very comprehensive Ordinance of 1929, as amended in 1936 and 1937. Thus, whereas under sec. 220 of the principal Ordinance the provisions of the Ottoman Commercial Code as to order of payment of debts (Arts. 154-160 ; 249-262) continued to be applicable in a winding-up of an insolvent company, it is now provided (sec. 6) that the same rules are to be observed with regard to respective rights of secured and unsecured creditors and to debts provable, etc., as are in force for the time being under the Law of Bankruptcy (*cf.*, English Companies Act, 1929, sec. 262). This provision in effect

makes the English rules applicable (see Bankruptcy Order, 1936, Second Schedule). A series of additional sections (220A, 220B, 220C) are enacted corresponding to secs. 264, 265, 267 of the English Act of 1929, with the requisite local changes.

Criminal Procedure.—The amendments to the Criminal Procedure (Trial upon Information) Ordinance are numerous and, in most cases, according to English precedent. Thus sec. 13, amending sec. 34 of the Principal Ordinance of 1924, provides that the evidence of a child given otherwise than upon oath must be corroborated by other material evidence implicating the accused (*cf.*, Children Act, 1908, sec. 30). So again, sec. 16 amending sec. 42, gives the last word to the accused where no witness other than the accused has been called for the defence. By sec. 24 it is provided, in substitution for an earlier provision that in the case of an accused person guilty of an offence but mentally diseased at the time of its commission a special verdict of " Guilty but insane " shall be returned (*cf.*, Trial of Lunatics Act, 1883, sec. 2). Drastic provisions in restraint of publicity are made by a new section 74B by subsection (1) of which it is made lawful for any court to exclude the public where it is necessary so to do for the administration of justice. Other subsections make more limited provisions as to exclusion of young persons or to secure privacy when young persons are giving evidence in sexual cases. And a new section (74C) restrains newspaper publication of name, address, or school of persons under sixteen concerned as victim or witness in such cases, as also publication of their picture in any newspaper.

Magistrates.—Apart from these numerous amendment Ordinances and the Emergency Ordinances mentioned below the most substantial enactment of 1939 appears to be a consolidating Magistrates Courts Jurisdiction Ordinance (No. 45) re-enacting with changes the earlier enactments of 1935-1936. In Palestine, magistrates' courts are necessarily of great importance socially and are much more closely in touch with the popular life than are the superior courts. Their history and evolution in the country is of considerable interest and goes back to the Ottoman Magistrates Law of 17 Gamad el Awal AH 1331, which as modified by rules made by the Senior Judicial Officer O.E.T.A. constituted the body of provisions under which the courts functioned in the first days of the British occupation. The Magistrates' Courts have both Civil and Criminal jurisdiction, including actions for possession of immovables and for their partition, but the High Commissioner may, in the warrant of appointment, impose restrictions or limitations upon jurisdiction. The magistracy is partly British and partly local, and special rules determine the circumstances in which persons have a right to be tried by a British magistrate and the powers of each type of judge. Provisions as to trial of insane persons, exclusion of persons from a hearing, etc., similar to those just mentioned in connexion with the Trial upon Information Ordinance, have also been inserted in the new Magistrates Jurisdiction Ordinance.

Petroleum.—Another piece of legislation of considerable present interest is the Iraq Petroleum Company Conventions and Agreements Ordinance (No. 30), which briefly enacts that the Conventions and Agreements set out in the schedules shall be deemed to be, and always to have been, valid. The scheduled Convention regulates the transit of mineral oils through the territory of Palestine and gives to the Company varied and important powers and liberties for the purpose of their enterprise. This Convention

is dated in 1931. The scheduled Agreement is one between the Crown Agents and the Iraq Petroleum Co., and relates to the construction of the oil dock in Haifa Harbour and the laying of the pipe line. This dates from 1933.

Emergency Legislation.—The emergency legislation of 1939 was considerable. On the eve of the war a Banking Emergency Ordinance (No. 33), an Essential Commodities (Reserves) Ordinance (No. 35), and Food and Essential Commodities (Control) Ordinance (No. 34) were enacted. There followed, on September 5, a Trading with the Enemy Ordinance (No. 36) and others provoked by the war, such as the Import, Export and Customs (Defence) Ordinance (No. 51) and the Patent, Designs, Copyright and Trade Marks (Emergency) Ordinance (No. 56). Defence Regulations under the Emergency Powers (Colonial Defence) Order in Council, 1939, and Emergency Powers (Defence) Act, 1939, have been issued.

Citizenship.—In conclusion, attention may be drawn to a new Palestinian Citizenship (Amendment) Order in Council, which further modifies the original Order of 1925. It is (*inter alia*) now provided (Art. 12 (2)) that where after the appointed day an alien woman marries a Palestinian citizen, she shall not, by reason of such marriage, become a Palestinian citizen, though she may on application obtain a certificate of naturalization.

2. TRANS-JORDAN.

It is hoped to include a summary in the next issue.

XV. UNITED STATES OF AMERICA.

FEDERAL LEGISLATION.

[*Contributed by* LUCIUS F. CRANE, ESQ.]

A normally large volume of legislation was passed during the 76th Session of the United States Congress in 1939. Legislation in large measure concerned such subjects as Agriculture, the Army, the Navy, amendments to the Criminal Code, Education, the Postal Service, Railways and Shipping and like topics of an administrative and rather local character.

On the other hand, some subjects of outstanding interest beyond the limits of the United States were dealt with and perhaps the most notable was the passage of the so-called Neutrality Act on November 4, 1939.

It is, perhaps, a rather usual feature of life in war time that events and dates which seem to be of outstanding interest at one moment are speedily driven out of mind by later incidents.

Neutrality.—Many of us have, therefore, probably forgotten our intense interest in the passage of the Neutrality Act of 1939 and even why we were so interested. A short history of the Act is this: In 1935 Congress passed a Neutrality Act, which, in brief, put the President under the duty of proclaiming a state of war when it existed between two nations and provided that thereafter it should be unlawful to export or attempt to export, or cause to be exported, arms, munitions or implements of war from any place in the United States to any belligerent State named in such proclamation, or to any neutral State for transhipment to or for the use of any such belligerent State.

The Act further provided for a proclamation by the President enumerating the nature of the arms, munitions and implements of war, the export of which was forbidden.

Obviously, therefore, on the outbreak of war between Great Britain and Germany it was impossible for Great Britain to buy any arms in the United States in the face of this Act.

Early in September, 1939, the President, in compliance with the Act of 1935, made a proclamation which, after reciting the existence of a state of war between the belligerents, drew public attention in the United States to a series of acts forbidden by the provisions of the penal code of the United States.

These acts included accepting commissions to serve under the belligerents, enlisting in the service of the belligerents as a soldier, fitting out expeditions or fitting out any ship or vessel for employment in the service of one of the belligerents, furnishing money for any enterprise on behalf of a belligerent, and the like.

In September and October, 1939, the repeal of the Act of 1935 was violently debated in Congress.

In the result, a joint resolution was passed by the Senate and the House of Representatives which, in effect, repealed the provisions of the Act of 1935 and made it possible for arms and munitions to be shipped to England. This joint resolution is known as the Neutrality Act, 1939, and constitutes Sections 245J *et seq.* of Title 22 ("Foreign Relations and Intercourses") of the United States Code.

Concurrently with the passage of this resolution, on November 4, 1939, the President issued further proclamations defining the combat area and denying the use of American Ports and Territorial Waters to belligerent submarines except in cases of *force majeure*.

The Neutrality Act of 1939 again placed upon the President the duty of making a proclamation in regard to the existence of a state of war between belligerent nations and contained the following provisions of interest.

The Act provides that after the proclamation of a state of war it is unlawful for any American vessel to carry any passengers or any articles or materials to any State named in the proclamation.

Secondly, the Act prohibits the export of any articles from the United States to any State named in the proclamation unless title has first been transferred to the purchaser and, finally, the Act and the regulations issued under it forbid any American citizen to travel on a belligerent ship.

This last prohibition produced somewhat extraordinary results. At the time of the passage of the Act there were, of course, a number of American wives of English husbands in the United States. If they had been married after September, 1922, they remained American citizens under American law, unless they had taken steps to divest themselves of American nationality. Following upon the passage of the Neutrality Act, the State Department called in all American passports and ladies of the category in question, therefore, found themselves unable to return to England. Even if they could get a passport from the State Department, and though they could then travel as far as Lisbon by American Clipper, they could not proceed by air or ship to the United Kingdom.

Finally, after a great deal of difficulty, the passage of a regulation was secured in December, 1939, permitting American citizens whose homes were in England to travel across the Channel on a belligerent

" vessel " (*i.e.*, aircraft or watercraft). Some of the ladies in question had, meanwhile, adopted the strategy of taking advantage of their English nationality under English law and obtaining an English passport in New York. In that way they were able to provide themselves with a passport at least, but Americans who are still in the United Kingdom and desire to return to the United States are forbidden to travel by belligerent ship and must, therefore, wait their turn to obtain air accommodation to New York.

Revenue.—Apart from the Neutrality Act the chief legislative enactment of 1939 which is of interest beyond the limits of the United States is the passage of the Internal Revenue Code, which for the first time consolidated the provisions of the numerous Revenue Acts imposing income-tax, estate tax and various Excise taxes.

Prior to the enactment of this Code, those interested in tax law had been obliged to extract the existing law from a series of Revenue Acts dating, in the case of income-tax, from 1913 and from a mass of regulations amplifying those Acts. Now, however, there exists in the United States an Act somewhat equivalent (so far as Income-tax Law is concerned) to the Income-Tax Act of 1918. The Code is amended from year to year by Revenue Acts rather similar to the annual Finance Acts in this country, but with the advantage that the law is summarized as of a much later date in the United States than in England.

Administration.—A feature of the 1939 legislation, indicating the rapidly expanding functions of the President is the series of amendments to Titles 3 (" The President ") and 5 (" Executive Departments, Government Officers and Employees ") of the United States Code. For example, provision was made for no less than six administrative assistants to perform such duties as the President might prescribe, and plans for the reorganization of the Executive and Administrative Agencies of the Government, prepared by the President, were adopted.

Railways.—In conclusion, attention may be drawn to an interesting development of the Bankruptcy Law, designed to permit railways, which comply with specific condition, to postpone or modify their obligations and to adjust their securities or capital structures. The need for that Act was occasioned by the financial position of many railways in the United States which had gone from bad to worse in the past decade, due largely to the encroachment of airways and road carriers upon their earnings.

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